

SIXTY-THIRD DAY
(Wednesday, May 3, 1995)

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Mr. Kelly Koonce, student, Austin Presbyterian Theological Seminary, offered the invocation as follows:

O God, our creator, our redeemer, and our guide, bestow upon these our Senators wisdom in decision making and peace of mind in decisions made. May the laws which they enact be in accordance with Your will and truth, and may they be ever mindful of their calling to serve with honor and dignity the people of this state. Bless them, O God. Bless us all and keep us always in Your care. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 628

On motion of Senator Madla and by unanimous consent, Senator West will be shown as Co-author of **S.B. 628**.

CO-AUTHORS OF SENATE BILL 1346

On motion of Senator West and by unanimous consent, Senators Wentworth and Moncrief will be shown as Co-authors of **S.B. 1346**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 131

On motion of Senator Madla and by unanimous consent, Senator Nixon will be shown as Co-author of **S.C.R. 131**.

CO-SPONSOR OF HOUSE BILL 44

On motion of Senator Patterson and by unanimous consent, Senator West will be shown as Co-sponsor of **H.B. 44**.

CO-SPONSOR OF HOUSE BILL 552

On motion of Senator Sims and by unanimous consent, Senator Haywood will be shown as Co-sponsor of **H.B. 552**.

MESSAGE FROM THE HOUSE

House Chamber
May 3, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 3072, Relating to the use of solid waste fee revenues.

H.C.R. 127, Memorializing the Congress of the United States to permit states to establish a 65 mph speed limit on certain highways.

H.C.R. 145, Establishing a program whereby loans are made to state agencies, local governments, counties, or special districts to finance alternative fuel projects.

H.C.R. 160, Authorizing the lieutenant governor and speaker to create joint committees by mutual agreement.

Respectfully,
Cynthia Gerhardt, Chief Clerk
House of Representatives

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

S.C.R. 137 by Haywood Criminal Justice
Declaring support for the death penalty for a capital felony.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

H.C.R. 160 to Committee on Administration.

H.B. 1193 to Committee on Health and Human Services.

H.B. 2376 to Committee on Natural Resources.

H.B. 2731 to Committee on Finance.

H.B. 3109 to Committee on Finance.

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

S.B. 366

S.B. 872

S.B. 1229

S.B. 1329

HOUSE CONCURRENT RESOLUTION 191

The President laid before the Senate the following resolution:

H.C.R. 191, Recognizing May 3, 1995, as Washington County Day.

TURNER

The resolution was again read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Tuesday, May 2, 1995.

GUESTS PRESENTED

Senator Turner was recognized and introduced to the Senate a delegation of officials from Washington County, the City of Brenham, and the Brenham Chamber of Commerce.

The Senate welcomed its guests.

SENATE RESOLUTION 906

Senator Lucio offered the following resolution:

WHEREAS, The Senate of Texas takes pride in recognizing First Lady Laura Welch Bush, wife of Governor George W. Bush, for her outstanding contributions to the Texas Capitol Restoration Celebration and for her exceptional efforts on behalf of our state; and

WHEREAS, After an extensive five-year restoration, the Capitol was rededicated amid much ceremony on April 21, 1995; the celebrating concluded with a parade, symphony, and fireworks on April 22, and the weekend was a tribute to this historic building and to those who helped renovate it; and

WHEREAS, Mrs. Bush's assistance with the various events was invaluable, and her participation in the rededication ceremonies serves as an example of her superior leadership and energy, as well as her enthusiasm for the history of Texas and the preservation of its traditions; and

WHEREAS, A woman of many interests and talents, Laura Bush is dedicated to her life as a homemaker and to her role as First Lady of Texas, and she has already made many contributions to the welfare of our state; and

WHEREAS, While living in Dallas, Mrs. Bush was a leader in her community and served on the boards of a number of civic and charitable organizations, including Child Protective Services Community Partner, Bryan's Friends, an auxiliary of Bryan's House, a home for children with AIDS, and Friends of the Dallas Public Library; and

WHEREAS, As First Lady, Mrs. Bush continues to work on behalf of Texas children and is focusing on highlighting Texas writers and libraries; she currently serves on the Advisory Board of The University of Texas Graduate School of Library and Information Science, the Advisory Board

of the American Library Association's Office for Intellectual Freedom, and The Texas Board for the National Museum of Women in the Arts; and

WHEREAS, Mrs. Bush brings a wealth of experience to her position as wife of the governor; she holds a master's degree in library science from The University of Texas at Austin and is a former teacher and librarian in the public school system, having served in Dallas, Houston, and Austin; she and Governor Bush were married in 1977 and are the parents of 13-year-old daughters, Barbara and Jenna; and

WHEREAS, A lady of remarkable poise, charm, and graciousness, Mrs. Bush is an exemplary individual who gives generously of her time and energy to the citizens of Texas, and her superb leadership as First Lady is a source of pride to our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby commend First Lady Laura Bush for her many accomplishments as a leading citizen of our state and as the wife of the governor and express appreciation to her for her recent work on the Texas Capitol Restoration Celebration; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of esteem from the Texas Senate.

The resolution was read.

SENATE RESOLUTION 909

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to pay tribute to Jan Felts Bullock for her substantial efforts on behalf of the restoration of the Texas State Capitol and the attendant rededication ceremonies; and

WHEREAS, Jan Bullock was born in Austin, Texas, and attended Austin public schools and The University of Texas; she is a licensed real estate agent and interior designer, and she is a former account executive with *Ultra* magazine and advertising director for *Austin Homes and Gardens*; and

WHEREAS, Nominated by Governor Ann Richards to serve on the Texas Historical Commission, Mrs. Bullock is also a member of the Daughters of the American Revolution and the Austin Women's Political Caucus and a Board Member of the Friends of the Governor's Mansion; and

WHEREAS, Honored in 1992 with Lieutenant Governor Bullock by the Mental Health Association in Texas and honored in 1993 with Lieutenant Governor Bullock by the Executive Directors of the Texas Council on Family Violence for their commitment to and advocacy for family services and laws, Jan Bullock is dedicated to her life as the wife of a public official and is constantly engaged in works that serve her community and her state; and

WHEREAS, This exemplary lady was named by the Texas Historical Commission to serve as a Texas Preservation Trust Fund Guardian, assisting the Texas Historical Commission in preserving historic architectural and historical archeological properties of the state; and

WHEREAS, Jan Bullock also serves as an official state representative on the tour for new cities inducted into the Historical Commission's Main Street Project, a long-range effort to revitalize the economy and encourage historical recognition of downtown areas across the state; and

WHEREAS, She was named by the State Preservation Board to chair the Capitol Restoration Project's Capitol Fund Drive to raise private donations to purchase and restore authentic furnishings and artwork for the Capitol and with her usual talent and determination accomplished that task superbly; and

WHEREAS, The devotion, hard work, and outstanding leadership on the part of Jan Bullock are an inspiration to others; her assistance and participation in the Capitol Rededication helped make it all possible; all citizens of Texas owe her a debt of gratitude, and her efforts are certainly worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby express sincere appreciation to Jan Felts Bullock for her vital service to the Texas Capitol Restoration Project and the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of the highest esteem of the Texas Senate.

The resolution was read.

SENATE RESOLUTION 908

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing Nelda Laney, wife of Texas House Speaker Pete Laney, for her outstanding contributions to the renovation of the Texas Capitol and to the Texas Capitol Restoration Celebration; and

WHEREAS, In her role as the wife of a leading public official, Nelda Laney was actively involved in coordinating the renovation and in furnishing the Speaker's offices and apartment in the State Capitol, as well as in serving as Vice-Chair of the Texas Capitol Restoration Celebration; and

WHEREAS, After an extensive five-year restoration, the Capitol was rededicated amid much ceremony on April 21, 1995; the celebrating concluded with a parade, symphony, and fireworks on April 22, and the weekend was a tribute to this historic building and to those who helped renovate it; and

WHEREAS, Mrs. Laney's assistance in the renovation and in the rededication ceremonies was invaluable, and her hard work serves as an example of her highly respected resourcefulness, energy, and leadership; and

WHEREAS, Nelda Laney keeps a challenging and busy schedule as a woman who is dedicated to both family life and her role as the wife of the Speaker; a graduate of Texas Tech University, she has been married to Speaker Pete Laney for 31 years, and the couple has three children, KaLyn Laney, Jamey Laney Phillips, and J. Pete Laney; and

WHEREAS, Her wide range of experience and special talents have made her one of the state's most treasured individuals; over the years she

has made numerous public appearances and helped handle district business for her husband; she currently serves as Co-Chair of the Capitol Fund Drive, which raised \$5 million for furnishing the Capitol; and

WHEREAS, An exemplary and distinguished lady who is well known for her charm and grace, Nelda Laney gives unselfishly of her time and energy to the State of Texas, and her accomplishments and expertise are a source of great pride to its citizens; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby commend Nelda Laney for her superb leadership and achievements and express appreciation to her for work on the Capitol renovation and the Texas Capitol Restoration Celebration; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of esteem from the Texas Senate.

The resolution was read.

SENATE RESOLUTION 907

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing Debra Mears Montford, wife of Senator John T. Montford, for her outstanding contributions to the Texas Capitol Restoration Celebration and the Build the Capitol Contest; and

WHEREAS, After an extensive five-year restoration, the Capitol was rededicated amid much ceremony on April 19, 1995; the celebration concluded with a parade, symphony, and fireworks on April 20, and the weekend was a tribute to this historic building and to those who helped renovate it; and

WHEREAS, The Build the Capitol Contest was a hands-on project for seventh graders designed to teach them about the construction of the seat of Texas government which was originally dedicated in 1888; and

WHEREAS, Mrs. Montford's assistance with these projects was invaluable, and her work serves as an example of her remarkable resourcefulness, energy, and enthusiasm; and

WHEREAS, Dedicated to her life as a homemaker and as the wife of a public official, Debra Montford rarely finds time for herself and keeps a challenging and busy schedule as a leader in her community and in the state; and

WHEREAS, She has served as president of the Senate Ladies Club and is active in the Parent-Teacher Association; she also serves on the advisory committee of the Plum Foundation, a nonprofit charitable foundation; and

WHEREAS, An exemplary and distinguished lady, Mrs. Montford gives generously of her time and energy to the citizens of Texas, and her many accomplishments are a source of pride to our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby commend Debra Montford for her superior leadership and achievements and express appreciation to her for her recent work on the Texas Capitol Restoration Celebration; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to **S.R. 906, S.R. 909, S.R. 908, and S.R. 907** as signers thereof.

On motion of Senator Lucio, the resolutions were adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate First Lady Laura Bush, Mrs. Jan Bullock, Mrs. Nelda Laney, and Mrs. Debbie Montford.

The President then introduced to the Senate the Honorable George W. Bush, Governor of Texas, and Speaker of the House of Representatives, James E. "Pete" Laney.

The Senate welcomed its distinguished guests.

(Senator Truan in Chair)

CAPITOL PHYSICIAN

The Presiding Officer recognized Senator Wentworth, who presented Dr. James Womack of Bandera as the "Doctor for the Day," accompanied by his son Adam.

Dr. Womack, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

HOUSE BILL 1877 REREFERRED

On motion of Senator Montford and by unanimous consent, **H.B. 1877** was withdrawn from the Committee on Education and was rereferred to the Committee on Finance.

(President in Chair)

SENATE RESOLUTION 891

Senator Truan offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pride in recognizing Senator Gonzalo Barrientos, D-Austin, President Pro Tempore of the Texas Senate, who is being honored on Saturday, May 6, 1995, as Texas Governor-for-a-Day at the State Capitol; and

WHEREAS, Active in the Democratic Party since his high school days at Bastrop, he picked cotton in the Panhandle during the summers and was encouraged to continue his education by his mother, Cristina Mendiola Barrientos, and his father, Gonzalo Barrientos, Sr.; and

WHEREAS, Highly motivated to make a difference in the lives of his fellow citizens, he majored in Psychology and Spanish at The University of Texas at Austin and worked as a community organizer for the National Urban League, as a Program Officer for VISTA/Peace Corps, and as a

trainer for the Leadership Institute for Community Development in Washington, D.C.; and

WHEREAS, In 1987 when dropout statistics first were collected statewide and one out of three students dropped out of school, Senator Barrientos was appointed Co-Chair of the Joint Special Interim Committee on School Dropouts; the 27 bills he sponsored and passed helped students stay in school causing the dropout rate to decrease; and

WHEREAS, Elected to the Texas Senate in November, 1984, to represent District 14, consisting of Travis and Hays counties, Senator Barrientos served five terms in the Texas House of Representatives from 1975 through 1984 representing Southeast Travis County; and

WHEREAS, One of the Senate's most respected members, Senator Barrientos was appointed by Lieutenant Governor Bob Bullock during the 74th Legislature as Chairman of the Senate Committee of the Whole on Legislative and Congressional Redistricting and was reappointed to the Senate Education, Finance, Nominations, and Natural Resources Committees and to the Subcommittee on Water; and

WHEREAS, Resourceful and dedicated to the welfare of the citizens of Texas, Senator Gonzalo Barrientos holds a special place in the hearts of all Texans for his legislative leadership on such issues as education, health care, housing, meeting the special needs of the disabled, compensation for crime victims, the concerns of the elderly, consumer protection, protecting natural resources and the Edwards Aquifer, efficiency in state government, protection of Capitol views, and reduction of drug abuse; and

WHEREAS, In previous legislative sessions, Senator Barrientos was appointed by Lieutenant Governor Bob Bullock as Chairman of the Senate Nominations Committee, where he served with distinction; and

WHEREAS, Accolades for Senator Barrientos' exceptional work as a legislator include his selection as Outstanding Legislator of the Year for two consecutive years by the Texas Public Employees Association, the Texas Outstanding Public Servant Award, the Texas Association of Community Development Award, and the Texas Rehabilitation Association's Legislative Excellence Award; and

WHEREAS, During Senator Barrientos' successful political career, the love and support of his wife, Emma Serrato Barrientos, and of his children, Joseph and Lisa, Angelina, Alicia, Adelita, Veronica, and grandchildren, Elias, Alejandro, and Angelica, have been a great source of strength and inspiration; and

WHEREAS, A most conscientious public servant, Senator Barrientos has brought to the Senate a keen sense of fairness and a wide range of experience, and his leadership is a valuable asset to the legislature; and

WHEREAS, The Texas Governor-for-a-Day celebration is a long-cherished State Senate tradition, and this year's event is a fitting opportunity to express appreciation to Senator Barrientos for his many contributions to the Austin community, to Travis and Hays counties, and to the State of Texas; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby pay tribute to Senator Gonzalo Barrientos and his family and extend

to him and his many friends and supporters best wishes for joyous and productive Governor-for-a-Day activities; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Senator Barrientos, President Pro Tempore of the Texas Senate, and his family as an expression of the highest esteem from his fellow members of the Texas Senate and the President of the Senate, the Honorable Bob Bullock.

The resolution was read.

On motion of Senator Leedom and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan, the resolution was adopted by a rising vote of the Senate.

**SENATE CONCURRENT RESOLUTION 16
WITH HOUSE AMENDMENT**

Senator Shapiro called **S.C.R. 16** from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Committee Amendment No. 1

Amend **S.C.R. 16** as follows:

- (1) On page 1, line 13, delete the word "Certified" and substitute "Board certified".
- (2) On page 2, line 20, insert the word "board" between "all" and "certified".

The amendment was read.

On motion of Senator Shapiro and by unanimous consent, the Senate concurred in the House amendment to **S.C.R. 16** by a viva voce vote.

SENATE BILL 279 WITH HOUSE AMENDMENT

Senator Brown called **S.B. 279** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 279** on page 3, line 22, between "crime" and "and" add "or has been placed on deferred adjudication for a felony".

The amendment was read.

Senator Brown moved to concur in the House amendment to **S.B. 279**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(Senator Henderson in Chair)

SENATE BILL 401 WITH HOUSE AMENDMENT

Senator Ellis called **S.B. 401** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **S.B. 401** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the payment, and procedures to enforce payment, of taxes and fees collected by the comptroller; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 111.016, Tax Code, is amended to read as follows:

Sec. 111.016. PAYMENT TO THE STATE OF TAX COLLECTIONS.

(a) Any person who receives or collects a tax or any money represented to be a tax from another person holds the amount so collected in trust for the benefit of the state and is liable to the state for the full amount collected plus any accrued penalties and interest on the amount collected.

(b) With respect to tax or other money subject to the provisions of Subsection (a), an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and paying over of the tax or money, and who wilfully fails to pay or cause to be paid the tax or money is liable as a responsible individual for an amount equal to the tax or money not paid or caused to be paid. The liability imposed by this subsection is in addition to any other penalty provided by law. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this subsection.

(c) The district courts of Travis County have exclusive, original jurisdiction of a suit arising under this section.

(d) In this section:

(1) "Responsible individual" includes an officer, manager, director, or employee of a corporation, association, or limited liability company or a member of a partnership who, as an officer, manager, director, employee, or member, is under a duty to perform an act with respect to the collection, accounting, or payment of a tax or money subject to the provisions of Subsection (a).

(2) "Tax" includes any tax or money subject to the provisions of Subsection (a), including the penalty and interest computed by reference to the amount of the tax or money.

SECTION 2. Subchapter B, Chapter 111, Tax Code, is amended by adding Section 111.063 to read as follows:

Sec. 111.063. PENALTY FOR FAILURE TO USE ELECTRONIC FUNDS TRANSFER. (a) The comptroller may impose a penalty of five percent of the tax due on a person who:

(1) is required by statute or rule to pay the tax to the comptroller by means of electronic funds transfer; and

(2) does not pay the tax by means of electronic funds transfer.

(b) The penalty provided by this section is in addition to any other penalty provided by law.

SECTION 3. Section 111.206, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) In this section, "federal regulatory agency" includes the United States Internal Revenue Service.

SECTION 4. (a) This Act takes effect September 1, 1995.

(b) The change in law made by Sections 1 and 2 of this Act providing for the imposition of a penalty does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

(c) The change in law made by Section 3 of this Act may extend the limitations period in which the comptroller can collect a tax without regard to whether the tax is due before, on, or after the effective date of this Act.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Ellis and by unanimous consent, the Senate concurred in the House amendment to S.B. 401 by a viva voce vote.

SENATE BILL 403 WITH HOUSE AMENDMENT

Senator Cain called S.B. 403 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 403 as follows:

On page 4, line 6, insert the following as SECTION 4 and renumber the remaining SECTIONS accordingly:

SECTION 4. An attorney tax (Chapter 191, Tax Code) proceeding under Sections 111.009 or 111.105, Tax Code, that is not final on the effective date of a transfer of functions under this Act remains under the jurisdiction of the Comptroller as if this Act had not been enacted and the former law is continued in effect until the proceeding is final.

The amendment was read.

Senator Cain moved to concur in the House amendment to S.B. 403.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 897 WITH HOUSE AMENDMENT

Senator Sims called **S.B. 897** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 897** in SECTION 1 of the bill by relettering existing Section 162.014(c), Agriculture Code, as Section 162.014(d) (house committee report, page 2, line 2) and inserting the following as a new Section 162.014(c) (house committee report, page 2, between lines 1 and 2):

(c) Each agency, college, or service conducting the review under Subsection (a) shall as part of its review seek the advice and opinions of persons who are involved in commercially raising or feeding traditional or nontraditional farm or ranch animals. The Texas Agricultural Experiment Station shall ensure that persons who are involved in commercially raising or feeding traditional or nontraditional farm or ranch animals have ample notice of and opportunity to comment on the review's findings and that the comments of those persons are considered part of the review's findings.

The amendment was read.

Senator Sims moved to concur in the House amendment to **S.B. 897**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 360 ADOPTED**

Senator Montford called from the President's table the Conference Committee Report on **S.B. 360**. The Conference Committee Report was filed with the Senate on Tuesday, May 2, 1995.

On motion of Senator Montford, the Conference Committee Report was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Turner was recognized and introduced to the Senate a group of students from the Gifted and Talented Program of the Bremond Independent School District.

The Senate welcomed its guests.

SENATE BILL 60 WITH HOUSE AMENDMENTS

Senator Patterson called **S.B. 60** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 60 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the issuance of a license to carry a concealed handgun; requiring of an applicant for the license a handgun proficiency and safety training course and a criminal background check; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 70, Revised Statutes, is amended by adding Article 4413(29ee) to read as follows:

Art. 4413(29ee). LICENSE TO CARRY A
CONCEALED HANDGUN

Sec. 1. DEFINITIONS. In this article:

(1) "Action" means single action, revolver, or semi-automatic action.

(2) "Chemically dependent person" means a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary tendency to become intoxicated or use those substances as often as the opportunity is presented.

(3) "Concealed handgun" means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

(4) "Convicted" means an adjudication of guilt or an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not:

(A) the imposition of the sentence is subsequently probated and the person is discharged from community supervision; or

(B) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

(5) "Department" means the Department of Public Safety, including employees of the department.

(6) "Director" means the director of the Department of Public Safety or the director's designee.

(7) "Handgun" has the meaning assigned by Section 46.01, Penal Code.

(8) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(9) "Qualified handgun instructor" means a person who is certified to instruct in the use of handguns by the department.

(10) "Unsound mind" means the mental condition of a person who:
(A) has been adjudicated mentally incompetent, mentally ill, or not guilty of a criminal offense by reason of insanity; or

(B) has been diagnosed by a licensed physician as being characterized by a mental disorder or infirmity that renders the person incapable of managing the person's self or the person's affairs, unless the

person furnishes a certificate from a licensed physician stating that the person is no longer disabled.

Sec. 2. ELIGIBILITY. (a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not a person of unsound mind;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, state treasurer, or Texas Alcoholic Beverage Commission;

(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;

(13) is not currently restricted under a court protective order;

(14) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(15) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 3 of this article or in a request for application submitted pursuant to Section 4 of this article.

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) a felony if the offense is so designated by law or if confinement for one year or more in a penitentiary is affixed to the offense as a possible punishment; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the

offense shall be deemed to be a person who is chemically dependent and is not qualified to receive a license under this article. Nothing in this subsection shall preclude the disqualification of an individual for being a chemically dependent person if other evidence exists that the person is a chemically dependent person.

Sec. 3. APPLICATION. (a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 4 of this article:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b) of this section;

(2) two recent color passport photographs of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 17 of this article;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this article that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 2 of this article; and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any non-criminal history records that are necessary to determine the applicant's eligibility for a license under Section 2(a) of this article.

(b) An applicant must provide on the application a statement of the applicant's:

(1) full name and place and date of birth;

(2) race and sex;

(3) residence and business addresses for the preceding five years;

(4) hair and eye color;

(5) height and weight;

(6) driver's license number or identification certificate number issued by the department;

(7) criminal history record information of the type maintained by the department under Chapter 411, Government Code, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and

(8) history during the preceding five years, if any, of treatment received by, commitment to, or residence in a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state or in a psychiatric hospital.

(c) The department shall distribute on request a copy of this article and application materials.

Sec. 4. REQUEST FOR APPLICATION MATERIALS. (a) A person applying for a license to carry a concealed handgun must apply by obtaining a request for application materials from a handgun dealer, the department, or any other person or entity approved by the department. This request for application materials shall include the applicant's full name, address, race, sex, height, date of birth, and driver's license number and such other identifying information as may be required by the department by rule. This request shall be in a form prescribed by the department and made available to interested parties by the department. An individual who desires to receive application materials shall complete the request for application materials and forward it to the department at its Austin address. The department not later than the 15th day after the date the department receives a request for application materials shall review the request and make a preliminary determination as to whether or not the individual is qualified to receive a handgun license. If an individual is not disqualified to receive a handgun license, the department shall forward to the individual the appropriate application materials as described in this article. The applicant shall complete the application materials and forward the completed materials to the department at its Austin address.

(b) In the event that a preliminary review indicates that an individual will not be qualified to receive a handgun license, the department shall send written notification to that individual. The notice shall provide the reason that the preliminary review indicates that the individual is not entitled to receive a handgun license. The individual shall be given an opportunity to correct whatever defect may exist.

Sec. 5. REVIEW OF APPLICATION MATERIALS. (a) On receipt of the application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation detailed in Subsection (b) of this section.

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The scope of the record check and the investigation are at the sole discretion of the department. The department may send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters. The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the

application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 2 of this article. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued.

Sec. 6. LICENSE. (a) The department shall issue a license to carry a concealed handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department may issue a license to carry handguns only of the categories indicated on the applicant's certificate of proficiency issued under Section 17 of this article. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b)(1) After January 1, 1997, the department, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials, shall:

(A) issue the license; or

(B) notify the applicant in writing that the application was denied:

(i) on the grounds that the applicant failed to qualify under the criteria listed in Section 2 of this article;

(ii) based on the affidavit of the director's designee submitted to the department under Section 7(d) of this article; or

(iii) based on the affidavit of the qualified handgun instructor submitted to the department under Section 17(c) of this article.

(2) Between the effective date of this article and December 31, 1996, the department shall perform the duties set out in this subsection not later than the 90th day after the date of the receipt by the director's designee of the completed application materials.

(c) If the department issues a license, the department shall notify the sheriff of the county in which the license holder resides that a license has been issued to the license holder. On request of a local law enforcement agency, the department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.

(d) A license issued under this article is effective from the date of issuance.

(e) The department by rule shall adopt the form of the license. A license must include:

(1) a number assigned to the license holder by the department;

(2) a statement of the period for which the license is effective;

(3) a statement of the category or categories of handguns the license holder may carry as provided by Subsection (f) of this section;

(4) a color photograph of the license holder; and

(5) the license holder's full name, date of birth, residence address, hair and eye color, height, weight, signature, and the number of a driver's license or an identification certificate issued to the license holder by the department.

(f) A category of handguns contains handguns that are not prohibited by law and are of certain actions. The categories of handguns are as follows:

(1) SA: any handguns, whether semi-automatic or not; and

(2) NSA: handguns that are not semi-automatic.

(g) On a demand by a magistrate or a peace officer that a license holder display the license holder's handgun license, the license holder shall display both the license and the license holder's driver's license or identification certificate issued by the department.

(h) If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license.

(i) A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (g) or (h) of this section. An offense under this subsection is a Class C misdemeanor.

Sec. 7. NOTIFICATION OF DENIAL, REVOCATION, OR SUSPENSION OF LICENSE; REVIEW. (a) The department shall give written notice to each applicant for a handgun license of any denial, revocation, or suspension of that license. Not later than the 30th day after the notice is received by the applicant, according to the records of the department, the applicant or license holder may request a hearing on the denial, revocation, or suspension. The applicant must make a written request for a hearing addressed to the department at its Austin address. The request for hearing must reach the department in Austin prior to the 30th day after the date of receipt of the written notice. On receipt of a request for hearing from a license holder or applicant, the department shall promptly schedule a hearing in the appropriate justice court in the county of residence of the applicant or license holder. The justice court shall conduct a hearing to review the denial, revocation, or suspension of the license. In a proceeding under this section, a justice of the peace shall act as an administrative hearing officer. A hearing under this section is not subject to Chapter 2001, Government Code (Administrative Procedure Act). The department may be represented by a district attorney or county attorney, the attorney general, or a designated member of the department.

(b) The department, on receipt of a request for hearing, shall file the appropriate petition in the justice court selected for the hearing and send a copy of that petition to the applicant or license holder at the address contained in departmental records. A hearing under this section must be scheduled within 30 days of receipt of the request for a hearing. The hearing shall be held expeditiously but in no event more than 60 days after

the date that the applicant or license holder requested the hearing. The date of the hearing may be reset on the motion of either party, by agreement of the parties, or by the court as necessary to accommodate the court's docket.

(c) The justice court shall determine if the denial, revocation, or suspension is supported by a preponderance of the evidence. Both the applicant or license holder and the department may present evidence. The court shall affirm the denial, revocation, or suspension if the court determines that denial, revocation, or suspension was supported by a preponderance of the evidence. If the court determines that the denial, revocation, or suspension was not supported by a preponderance of the evidence, the court shall order the department to immediately issue or return the license to the applicant or license holder.

(d) A proceeding under this section is subject to Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees.

(e) A party adversely affected by the court's ruling following a hearing under this section may appeal the ruling by filing within 30 days after the ruling a petition in a county court at law in the county in which the applicant or license holder resides or, if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the appropriate division of the department at its Austin headquarters. The trial on appeal shall be a trial de novo without a jury. The department may be represented by a district or county attorney or the attorney general.

(f) A suspension of a license may not be probated.

(g) If an applicant or a license holder does not petition the justice court, a denial becomes final and a revocation or suspension takes effect on the 30th day after receipt of written notice. Failure of the director to issue or deny a license as required under Section 6(b) of this article for a period of more than 30 days after he is required to act under that section constitutes denial.

(h) The department is specifically authorized to utilize and to introduce into evidence certified copies of governmental records to establish the existence of certain events which could result in the denial, revocation, or suspension of a license under this article, including but not limited to records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency, or other matters that may be established by governmental records which have been properly authenticated.

Sec. 8. NOTICE OF CHANGE OF ADDRESS OR NAME. (a) If a person, after applying for or receiving a license, moves from the address stated in the application or on the license or if the name of the person is changed by marriage or otherwise, the person shall, not later than the 30th day after the date of the address or name change, notify the department and provide the department with the number of the person's license if a license has been issued and the person's:

(1) former and new addresses; or

(2) former and new names.

(b) If the name of the license holder is changed by marriage or otherwise, the person shall apply for a duplicate license.

(c) If a license holder moved from the address on the license, the person shall apply for a duplicate license.

(d) The department shall charge a license holder a fee of \$25 for a duplicate license.

(e) The department shall make the forms available on request.

(f) The department shall notify the sheriff of the county in which a license holder resides of a change made under Subsection (a) of this section by the license holder. On request of a local law enforcement agency, the department shall notify the agency of changes made under Subsection (a) of this section by license holders who reside in the county in which the agency is located.

(g) If a license is lost, stolen, or destroyed, the license holder shall apply for a duplicate license not later than the 30th day after the date of the loss, theft, or destruction of the license.

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. The applicant shall pay only the nonrefundable renewal fee.

Sec. 9. EXPIRATION. (a) A license issued under this article expires on the first birthday of the license holder occurring after the fourth anniversary of the date of issuance.

(b) A renewed license expires on the license holder's birthdate, four years after the date of the expiration of the previous license.

(c) A duplicate license expires on the date the license that was duplicated would have expired.

(d) A modified license expires on the date the license that was modified would have expired.

Sec. 10. MODIFICATION. (a) To modify a license to allow a license holder to carry a handgun of a different category than the license indicates, the license holder must:

(1) complete a proficiency examination as provided by Section 16(d) of this article;

(2) obtain a handgun proficiency certificate under Section 17 of this article not more than six months before the date of application for a modified license; and

(3) submit to the department:

(A) an application for a modified license on a form provided by the department;

(B) a copy of the handgun proficiency certificate;

(C) payment of a modified license fee of \$25; and

(D) two recent color passport photographs of the license holder.

(b) The director by rule shall adopt a modified license application form requiring an update of the information on the original completed application.

(c) The department may modify the license of a license holder who meets all the eligibility requirements and submits all the modification materials. Not later than the 45th day after receipt of the modification materials, the department shall issue the modified license or notify the license holder in writing that the modified license application was denied.

(d) On receipt of a modified license, the license holder shall return the previously issued license to the department.

Sec. 11. RENEWAL. (a) To renew a license, a license holder must:

(1) complete a continuing education course in handgun proficiency under Section 16(c) of this article not more than six months before the date of application for renewal;

(2) obtain a handgun proficiency certificate under Section 17 of this article not more than six months before the date of application for renewal; and

(3) submit to the department:

(A) an application for renewal on a form provided by the department;

(B) a copy of the handgun proficiency certificate;

(C) payment of a nonrefundable renewal fee as set by the department; and

(D) two recent color passport photographs of the applicant.

(b) The director by rule shall adopt a renewal application form and set the renewal fee in an amount that is sufficient to cover the actual cost to the department to renew a license. Not later than the 60th day before the expiration date of the license, the department shall mail to each license holder a written notice of the expiration of the license and a renewal form.

(c) The department shall renew the license of a license holder if the license holder submits an application for renewal and completes the continuing education requirements and the department receives no information indicating the license holder is ineligible for license renewal. Not later than the 45th day after receipt of the renewal materials, the department shall issue the renewal or notify the license holder in writing that the renewal application was denied.

(d) The director by rule shall adopt a procedure by which a license holder who satisfies the eligibility criteria may renew a license by mail. The materials for renewal by mail must include a form to be signed and returned to the department by the applicant that describes state law regarding:

(1) the use of deadly force; and

(2) the places where it is unlawful for the holder of a license issued under this article to carry a concealed handgun.

Sec. 12. REVOCATION. (a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 2 of this article; or

(4) is convicted of an offense under Section 46.035, Penal Code.

(b) If a peace officer believes a reason listed in Subsection (a) of this section to revoke a license exists, the peace officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the peace officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 7 of this article. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation has been entered by the justice court.

(c) A license holder whose license has been revoked for a reason listed in this section may reapply as a new applicant for the issuance of a license under this article after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause of revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for the revocation no longer exists and has not existed for a period of two years.

Sec. 13. SUSPENSION OF LICENSE. (a) A license may be suspended under this section if the license holder:

(1) is convicted of disorderly conduct punishable as a Class C misdemeanor under Section 42.01, Penal Code;

(2) fails to display a license as required by Section 6 of this article;

(3) fails to notify the department of a change of address or name as required by Section 8 of this article;

(4) carries a concealed handgun under the authority of this article of a different category than the license holder is licensed to carry;

(5) has been charged by indictment with the commission of an offense that would make the license holder ineligible for a license on conviction; or

(6) fails to return a previously issued license after a license is modified as required by Section 10(d) of this article.

(b) If any peace officer believes a reason listed in Subsection (a) of this section to suspend a license exists, the officer shall prepare an

affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the suspension as provided by Section 7 of this article. If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension has been entered by the justice court.

(c) A license may be suspended under this section for not less than 90 days and not more than two years.

Sec. 14. SEIZURE OF HANDGUN AND LICENSE. (a) If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this article, the peace officer shall seize the license holder's handgun and license as evidence.

(b) The provisions of Article 18.19, Code of Criminal Procedure, relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection.

(c) Any judgment of conviction entered by any court for an offense under Section 46.035, Penal Code, shall contain the handgun license number of the convicted license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 12(a)(4) of this article.

(d) If a peace officer arrests a license holder for an offense that contains intoxication as an element, the officer may request the license holder to give a specimen of the license holder's breath for the purpose of analysis to determine the alcohol concentration or the presence in the license holder's body of a controlled substance, drug, dangerous drug, or other substance. If the license holder consents to give a specimen under this section, the taking of the specimen and the analysis of the specimen must be performed in the manner provided by Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), for persons arrested for driving while intoxicated.

Sec. 15. LIMITATION OF LIABILITY. (a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor liable for damages caused by:

(1) an action authorized under this article or failure to perform a duty imposed by this article; or

(2) the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this article.

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this article.

(c) The department is not responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the department under this article.

(d) The immunities granted above under Subsections (a), (b), and (c) do not apply to acts or failures to act by the state, an agency or subdivision of the state, an officer of the state, or a peace officer when such acts or failures to act were capricious or arbitrary.

Sec. 16. HANDGUN PROFICIENCY REQUIREMENT. (a) The director shall by rule establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. An applicant may not be certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a 9-millimeter or .38-caliber handgun. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

(b) A handgun proficiency course must be administered by a qualified handgun instructor and must include at least 10 hours and not more than 15 hours of instruction on:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(c) The department shall by rule develop a continuing education course in handgun proficiency for a license holder who wishes to renew a license. The continuing education course shall be administered by a qualified handgun instructor and must include at least four hours of instruction on one or more of the subjects listed in Subsection (b) of this section and include other information the director determines is appropriate.

(d) The proficiency examination to obtain or to renew a license must be administered by a qualified handgun instructor and must include:

(1) a written section on the subjects listed in Subsection (b) of this section; and

(2) a physical demonstration of proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.

(e) The proficiency examination to modify a license must be administered by a qualified handgun instructor and must include a physical demonstration of the proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.

(f) The department shall develop and distribute directions and materials for course instruction, test administration, and recordkeeping. All test results shall be sent to the department, and the department shall maintain a record of the results.

(g) A person who wishes to obtain or renew a license to carry a concealed handgun shall apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency, demonstrate handgun proficiency, and obtain a handgun proficiency certificate as described by Section 17 of this article.

(h) A license holder who wishes to modify a license to allow the license holder to carry a handgun of a different category than the license indicates shall apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency to obtain a handgun proficiency certificate in that category as described by Section 17 of this article.

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor. A qualified handgun instructor shall make available for inspection to the department any and all records maintained by a qualified handgun instructor under this article. The qualified handgun instructor shall keep a record of all certificates of handgun proficiency issued by the qualified handgun instructor and other information required by the department by rule.

(j) The department shall conduct a study to determine the effectiveness and feasibility of allowing an applicant to take a written competency examination administered by a qualified handgun instructor in lieu of attending the classroom instruction required under this section as part of the handgun proficiency course. The department shall report the findings of the study to the legislature not later than January 31, 1997.

Sec. 17. HANDGUN PROFICIENCY CERTIFICATE. (a) The department shall develop a sequentially numbered handgun proficiency certificate and distribute the certificate to qualified handgun instructors who administer the handgun proficiency examination described in Section 16 of this article. The department by rule may set a fee in an amount sufficient to cover the costs of the certificates.

(b) If a person successfully completes the proficiency requirements as described in Section 16 of this article, the instructor shall endorse a certificate of handgun proficiency provided by the department. An applicant must successfully complete both classroom and range instruction

to receive a certificate. The certificate must indicate the category of any handgun for which the applicant demonstrated proficiency during the examination.

(c) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant is not qualified for handgun proficiency certification.

Sec. 18. QUALIFIED HANDGUN INSTRUCTORS. (a) The director may certify as a qualified handgun instructor a person who:

(1) is certified by the Commission on Law Enforcement Officer Standards and Education or the Texas Board of Private Investigators and Private Security Agencies to instruct others in the use of handguns;

(2) regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or

(3) is certified by the National Rifle Association of America as a handgun instructor.

(b) In addition to the qualifications described by Subsection (a) of this section, a qualified handgun instructor must be qualified to instruct persons in:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) The department shall provide training to an individual who applies for certification as a qualified handgun instructor. An applicant shall pay a fee of \$100 to the department for the training. An applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall waive the requirements regarding a handgun proficiency certification under Section 17 of this article for an applicant for a license to carry a concealed handgun who takes and successfully completes training under this subsection and pays the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(d) The certification of a qualified handgun instructor expires on the second anniversary after the date of certification. To renew a certification, the qualified handgun instructor must pay a fee of \$100 and take and successfully complete the retraining courses required by rule of the department.

(e) After certification, a qualified handgun instructor may conduct training for applicants for a license under this article.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a concealed handgun with respect to

a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the department shall take that action against the person's certification as a qualified handgun instructor regardless of whether the person has a license issued under this article to carry a concealed handgun.

Sec. 19. REVIEW OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION AS QUALIFIED HANDGUN INSTRUCTOR. The procedures for the review of a denial, revocation, or suspension of a license under Section 7 of this article apply to the review of a denial, revocation, or suspension of certification as a qualified handgun instructor. The notice provisions of this article relating to denial, revocation, or suspension of handgun licenses apply to the proposed denial, revocation, or suspension of a certification of a qualified handgun instructor or applicant therefor.

Sec. 20. CONFIDENTIALITY OF RECORDS. The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this article. The department shall, on written request and payment of a reasonable fee to cover costs of copying, disclose to any other individual whether a named individual or any individual whose full name is listed on a specified written list is licensed under this article. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, and zip code. Except as otherwise provided by this section and by Section 21 of this article, all other records maintained under this article are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552, Government Code, except that the applicant or license holder may be furnished a copy of such disclosable records on request and the payment of a reasonable fee. Nothing in this section shall prevent the department from making public and distributing to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department.

Sec. 21. STATISTICAL REPORT. The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder.

Sec. 22. RULES. The director shall adopt rules to administer this article.

Sec. 23. FUNDS. The department shall forward the fees collected under this article to the comptroller of public accounts. The comptroller shall deposit the fees to the credit of an account in the general revenue fund to be known as the concealed handgun license account. The legislature may appropriate funds from the account only for the purpose of paying the costs of the department in implementing this article.

Sec. 24. NOTICE. (a) For the purpose of a notice required by this article, the department may assume that the address currently reported to the department by the applicant or license holder is the correct address.

(b) A written notice meets the requirements under this article if the notice is sent by certified mail to the current address reported by the applicant or license holder to the department.

(c) If a notice is returned to the department because the notice is not deliverable, the department may give notice by publication once in a newspaper of general interest in the county of the applicant's or license holder's last reported address. On the 31st day after the date the notice is published, the department may take the action proposed in the notice.

Sec. 25. METHOD OF PAYMENT. A person may pay a fee required by this article only by cashier's check, money order made payable to the "Texas Department of Public Safety," or any other method approved by the department. A fee received by the department under this article is nonrefundable.

Sec. 26. LICENSE A BENEFIT. The issuance of a license under this article is a benefit to the license holder for purposes of those sections of the Penal Code to which the definition of "benefit" under Section 1.07, Penal Code, apply.

Sec. 27. HONORABLY RETIRED PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415, Government Code, and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this article on retirement. The application must be made not later than the 90th day after the date of retirement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency employing the applicant. The statement shall include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant before retirement;
- (3) whether or not the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;
- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;
- (6) whether the applicant would be eligible for reemployment with the agency, and if not, the reasons the applicant is not eligible; and
- (7) a recommendation from the agency head regarding the issuance of a license under this article.

(c) The department may issue a license under this article to an applicant under this section if the applicant is honorably retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

- (1) did not retire in lieu of any disciplinary action;
- (2) was employed as a full-time peace officer for not less than 10 years by one agency; and
- (3) is entitled to receive a pension or annuity for service as a law enforcement officer.

(d) An applicant under this section shall pay a fee of \$25 for a license issued under this article.

(e) A retired peace officer who obtains a license under this article must maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 415.035, Government Code. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 9 of this article.

Sec. 28. LAW ENFORCEMENT OFFICER ALIAS HANDGUN LICENSE. (a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a concealed handgun to be used in supervised activities involving criminal investigations.

(b) It is a defense to prosecution under Section 46.035, Penal Code, that the actor, at the time of the commission of the offense, was the holder of an alias license issued under this section.

Sec. 29. APPLICATION TO LICENSED SECURITY OFFICERS. This article does not exempt a license holder who is also employed as a security officer and licensed under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) from the duty to comply with that Act or Section 46.02, Penal Code.

Sec. 30. NOTICE REQUIRED ON CERTAIN PREMISES. (a) A business that has a permit or license issued under the Alcoholic Beverage Code for the sale and service of alcoholic beverages for on-premises consumption shall prominently display at appropriate locations on the business premises a sign that complies with the requirements of Subsection (b) of this section.

(b) The sign required under this section must give notice in both English and Spanish that it is unlawful to carry a concealed handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and shall be displayed in a conspicuous manner clearly visible to the public.

Sec. 31. RIGHTS OF EMPLOYERS. This article does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this article from carrying a concealed handgun on the premises of the business.

SECTION 2. Subsection (b), Section 46.02, Penal Code, is amended to read as follows:

(b) It is a defense to prosecution under this section that the actor was, at the time of the commission of the offense:

(1) in the actual discharge of his official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event he must comply with Subdivision (5);

- (3) traveling;
- (4) engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or was directly en route between the premises and the actor's residence, if the weapon is a type commonly used in the activity;
- (5) a person who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:
 - (A) he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;
 - (B) he is wearing a distinctive uniform; and
 - (C) the weapon is in plain view; ~~or~~
- (6) a peace officer, other than a person commissioned by the Texas State Board of Pharmacy; ~~or~~
- (7) carrying a concealed handgun and a valid license issued under Article 4413(29ee), Revised Statutes, to carry a concealed handgun of the same category as the handgun the person is carrying.

SECTION 3. Subsection (f), Section 46.03, Penal Code, is amended to read as follows:

(f) It is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

(g) An offense under this section is a third degree felony.

SECTION 4. Chapter 46, Penal Code, is amended by adding Sections 46.034 and 46.035 to read as follows:

Sec. 46.034. FALSE INFORMATION ON LICENSE TO CARRY HANDGUN. (a) A person commits an offense if the person provides false information on an application for a license to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

(b) An offense under this section is a Class A misdemeanor.

Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER. (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Article 4413(29ee), Revised Statutes, and intentionally fails to conceal the handgun.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under the Alcoholic Beverage Code for the sale or service of alcoholic beverages for on-premises consumption, if the business derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption;

(2) within a portion of the premises of a business that has a permit or license issued under the Alcoholic Beverage Code for the sale or service of alcoholic beverages for on-premises consumption, if that portion of the premises is used primarily for the sale, distribution, and service of

alcoholic beverages or if the provision of food or another service in that portion of the premises is incidental to the sale, distribution, and service of alcoholic beverages;

(3) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(4) on the premises of a correctional facility; or

(5) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, unless the license holder has written authorization of the hospital administration.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed, at any meeting of a governmental entity.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed.

(e) A license holder who is licensed as a security officer under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) and employed as a security officer commits an offense if, while in the course and scope of the security officer's employment, the security officer violates a provision of Article 4413(29ee), Revised Statutes.

(f) In this section:

(1) "License holder" means a person licensed to carry a handgun under Article 4413(29ee), Revised Statutes.

(2) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(g) An offense under Subsection (a), (b), (c), (d), or (e) is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(4), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of deadly force under Chapter 9.

SECTION 5. Section 51.16, Family Code, is amended by adding Subsection (m) to read as follows:

(m) On request of the Department of Public Safety, a juvenile court shall reopen and allow the department to inspect the files and records of the juvenile court relating to an applicant for a license to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

SECTION 6. (a) This Act takes effect September 1, 1995, except that a license issued under this Act before January 1, 1996, is not effective until January 1, 1996. A license issued before January 1, 1996, shall be clearly marked to reflect the date on which it becomes effective, and the director of the Department of Public Safety shall inform each recipient of a license before that date that the license is not effective until that date.

(b) Notwithstanding Subsection (a), Section 9, Article 4413(29ee), Revised Statutes, as added by this Act, the Department of Public Safety by rule may adopt a system to implement staggered and evenly distributed license expiration dates over the four-year period beginning January 1, 1996. The department may not issue a license that is effective for less than two years. A license that is effective for less than four years and is renewed expires as provided by Subsection (b), Section 9, Article 4413(29ee), Revised Statutes, as added by this Act. Notwithstanding Subdivision (6), Subsection (a), Section 3, Article 4413(29ee), Revised Statutes, as added by this Act, the department by rule shall prorate the nonrefundable application and license fee for applicants who receive licenses that are effective for less than four years under this subsection.

SECTION 7. An offense committed before January 1, 1996, is covered by the law in effect when the offense is committed, and the former law is continued in effect for this purpose.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. 60 by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION ____ . Section 215.001(b), Local Government Code, is amended to read as follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms within the limits of the municipality;

(3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation; or

(6) regulate the carrying of a firearm by a person other than a person licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes, at a:

- (A) public park;
- (B) public meeting of a municipality, county, or other governmental body;
- (C) political rally, parade, or official political meeting; or
- (D) nonfirearms-related school, college, or professional athletic event.

Floor Amendment No. 5

Amend C.S.S.B. 60 in SECTION 1 of the bill, in Section 2 of proposed Article 4413(29ee), Revised Statutes, as follows:

(1) In subsection (a)(4) (House committee report, page 3, line 8), between under and the comma, substitute "Sections 42.01 or 22.01 for "Section 42.01".

Floor Amendment No. 6

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Section 2(a), Article 4413(29ee), Revised Statutes (House committee report, page 3, lines 16-17), insert the following new Subdivision (9) and renumber existing subdivisions accordingly:

(9) has not been convicted of a Class A or Class B misdemeanor involving the use or possession of a firearm;

Floor Amendment No. 7

Amend Floor Amendment No. 6 to read as follows:

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Section 2(a), Article 4413(29ee), Revised Statutes (House committee report, page 3, lines 16-17), insert the following new Subdivision (9) and renumber existing subdivisions accordingly:

(9) has not been convicted of a Class A or Class B misdemeanor involving the use of a firearm;

Floor Amendment No. 8

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Section 2(a)(11), Article 4413(29ee), Revised Statutes, between the comma and "or" (House committee report, page 3, lines 24), insert "tax collector of a political subdivision of the state".

Floor Amendment No. 9

Amend C.S.S.B. 60 in SECTION 1 of the bill, Section 2 of proposed Article 4413(29ee), Revised Statutes, as follows:

(1) In subsection (a)(13) (House committee report, page 4, line 2), between "protective order" and the semicolon, insert "or subject to a restraining order affecting the spousal relationship, not including restraining orders solely affecting property interests"

Floor Amendment No. 10

Amend C.S.S.B. 60 as follows:

On page 3, line 25, after the word "Commission" and before the semi-colon, insert the words "or any other agency or subdivision of the state"

Floor Amendment No. 11

Amend C.S.S.B. 60 as follows:

(1) In SECTION 1 of the bill, after the semicolon in Section 2(a)(14) of proposed Article 4413(29ee), Revised Statutes (House committee printing, page 4, line 5), strike "and".

(2) In SECTION 1 of the bill, in Section 2(a)(15) of proposed Article 4413(29ee), Revised Statutes, between "article" and the period (House committee printing, page 4, line 9), insert the following:
: or

(16) is not a member of or does not provide shelter with the intent to contribute to an organization the purpose of which is to inflict injury on a person, other organization, governmental entity, law enforcement agency, or ethnic group, including destruction of a building or other structure used by the person, organization, entity, agency, or group

(3) In SECTION 1 of the bill, in Section 3(a)(8)(A) of proposed Article 4413(29ee), Revised Statutes (House committee printing, page 5, line 25), between the semicolon and the word "and", insert the following Subdivision (B) and redesignate the existing Subdivision (B) as Subdivision (C):

(B) is not a member of or does not provide shelter with the intent to contribute to an organization the purpose of which is to inflict injury on a person, other organization, governmental entity, law enforcement agency, or ethnic group, including destruction of a building or other structure used by the person, organization, entity, agency, or group;

(4) In SECTION 1 of the bill, between the first and second sentences of Section 12(b) of proposed Article 4413(29ee), Revised Statutes (house committee printing, page 19, line 8), insert the following: The information may include the statement of any citizen who informs the officer that the license holder is a member of or provides shelter with the intent to contribute to an organization the purpose of which is to inflict injury on a person, other organization, governmental entity, law enforcement agency, or ethnic group.

Floor Amendment No. 13

Amend C.S.S.B. 60, in Section 1 of the bill as follows:

(1) In proposed Section 1(10)(B) of added Article 4413(29ee), on page 2 add the lines 26 as follows; strike the period after the word "disabled" and add the following: "or under any medication for the treatment of a mental or psychiatric disorder; or"

(2) In proposed Section 1(10)(B) of added Article 4413(29ee), on page 2 add the following section (C) after line 26 as follows:

"(C) has been diagnosed by a licensed physician as suffering from but not limited to depression, manic depression or post traumatic stress syndrome, unless the person furnishes a certificate from a licensed physician stating that the person is no longer disabled, or under any medication for the treatment of a mental or psychiatric disorder."

Floor Amendment No. 16

Amend C.S.S.B. 60, in SECTION 1 of the bill, in Section 3(a)(8)(A) of proposed Article 4413(29ee), Revised Statutes (House committee printing, page 5, line 25), between the semicolon and the word "and", by inserting the following Subdivision (B) and redesignating the existing Subdivision (B) as Subdivision (C):

(B) has informed the applicant's spouse, if any, that the applicant is applying for the issuance of a license to carry a concealed handgun under the authority of this article;

Floor Amendment No. 17

Amend C.S.S.B. 60 as follows:

- (1) On page 8, line 17, strike "may" and substitute "shall".

Floor Amendment No. 19

Amend C.S.S.B. 60 in proposed Section 6, Article 4413(29ee), Revised Statutes (House committee report, page 11, between lines 23 and 24), by inserting the following:

(j) A license holder commits an offense if the license holder is stopped by a peace officer for a traffic violation and fails to inform the officer that the license holder is carrying a concealed handgun and to indicate the location of the handgun. An offense under this subsection is a Class C misdemeanor and is grounds for revocation of the license holder's handgun license.

Floor Amendment No. 20

Amend C.S.S.B. 60 as follows:

- 1) On page 14, line 19, after the word "person" strike [~~after applying for or receiving a license~~] and put in its place who is a current license holder.

- 2) On page 14, line 24, after the word "license" strike [~~if a license has been issued~~].

Floor Amendment No. 21

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Section 12(a)(2), Article 4413(29ee), Revised Statutes, between "(2)" and "gave" (House committee report, page 18, line 25), by inserting "knowingly".

Floor Amendment No. 22

Amend C.S.S.B. 60 as follows:

- (1) In SECTION 1 of the bill, in proposed Section 12(a), Article 4413(29ee), Revised Statutes (House committee report, page 18,

line 21), strike "A license may be revoked" and substitute "A license shall be revoked".

(2) In SECTION 1 of the bill, in proposed Section 13(a), Article 4413(29ee), Revised Statutes (House committee report, page 20, lines 9-10), strike "A license may be suspended" and substitute "A license shall be suspended".

Floor Amendment No. 24

Amend C.S.S.B. 60 by striking proposed Section 13(c) of added Article 4413(29ee), Revised Statutes (House committee report, page 21, lines 22-23), and substituting the following:

(c) A license may be suspended under this section for not less than one year and not more than three years.

Floor Amendment No. 25

Amend C.S.S.B. 60, in SECTION 1 of the bill, in Section 16(b) of proposed Article 4413(29ee), Revised Statutes (House committee printing, page 24, lines 8-9), by striking "10 hours and not more than 15" and substituting "15" to "30".

Floor Amendment No. 26

Amend C.S.S.B. 60 in SECTION 1 of the bill, in proposed Section 17(a), Article 4413(29ee), Revised Statutes (House committee report, page 26, line 20), by striking "in an amount sufficient" and substituting "not to exceed five dollars".

Floor Amendment No. 27

Amend C.S.S.B. 60, in SECTION 1 of the bill, in Section 27 of proposed Article 4413(29ee), Revised Statutes, by adding a new Subsection (g) to read as follows:

(g) A retired criminal investigator of the United States who is designated as a "special agent" is eligible for a license under this section. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

(1) retirement credentials; and

(2) a letter from the agency head stating the applicant retired in good standing.

Floor Amendment No. 28

Amend the ___ amendment to C.S.S.B. 60, at the end of proposed new Section 27, Article 4413(29ee), Revised Statutes, by adding Subsection (h) as follows:

(h) The department shall issue a license to carry a concealed handgun under the authority of this article to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. The department shall waive any fee

required for the issuance of an original, duplicate, or renewed license under this article for an applicant who is an attorney elected or employed to represent the state in the prosecution of felony cases.

Floor Amendment No. 32

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Article 4413(29ee), Revised Statutes (House committee printing, page 31, between lines 18 and 19), by adding the following new Section 27 and renumbering the existing sections of proposed Article 4413(29ee), Revised Statutes, accordingly:

Sec. 27. ACTIVE AND RETIRED JUDICIAL OFFICERS. (a) In this section:

(1) "Active judicial officer" means a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

(2) "Retired judicial officer" means:

(A) a special judge appointed under Section 26.023 or 26.024, Government Code; or

(B) a senior judge designated under Section 75.001, Government Code, or a judicial officer as designated or defined by Section 75.001, 831.001, or 836.001, Government Code.

(b) Notwithstanding any other provision of this article, the department shall issue a license under this article to an active or retired judicial officer who meets the requirements of this section.

(c) An active judicial officer is eligible for a license to carry a concealed handgun under the authority of this article. A retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this article if the officer:

(1) has not been convicted of a felony;

(2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor;

(3) is not charged with the commission of a Class A or Class B misdemeanor or of a felony under an information or indictment;

(4) is not a chemically dependent person; and

(5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application on a form prescribed by the department;

(2) two recent color passport photographs of the applicant;

(3) a handgun proficiency certificate issued to the applicant as evidence that the applicant successfully completed the proficiency requirements of this article;

(4) a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a concealed handgun under this article; and

(5) if the applicant is a retired judicial officer:

(A) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints; and

(B) a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this article.

(e) On receipt of all the application materials required by this section, the department shall:

(1) if the applicant is an active judicial officer, issue a license to carry a concealed handgun under the authority of this article; or

(2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a concealed handgun under the authority of this article.

(f) Except as otherwise provided by this subsection, an applicant for a license under this section must satisfy the handgun proficiency requirements of Section 16 of this article. The classroom instruction part of the proficiency course for an active judicial officer is not subject to a minimum hour requirement. The instruction must include instruction only on:

(1) handgun use, proficiency, and safety; and

(2) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A license issued under this section expires as provided by Section 9 of this article and, except as otherwise provided by this subsection, may be renewed in accordance with Section 11 of this article. An active judicial officer is not required to attend the classroom instruction part of the continuing education proficiency course to renew a license.

Floor Amendment No. 33

Amend C.S.S.B. 60 in SECTION 1 of the bill, in proposed Section 27(a), (House committee report, page 31, lines 23 and 24), by striking the last sentence in Subsection (a) and substituting the following: "The application must be made not later than the first anniversary after the date of retirement."

Floor Amendment No. 34

Amend C.S.S.B. 60 as follows:

(1) On page 33, strike the current Sec. 29 and substitute the following:

Sec. 29. CONTROLLED SUBSTANCE ABUSE TEST. (a) If the director notifies an applicant for a license to carry a concealed handgun or a license holder in writing, the director may require the applicant or license holder to take a controlled substance abuse test within 24 hours after the notice is received. If an applicant fails to submit a negative test

result of the controlled substance abuse test to the director in accordance with this section, the director shall deny the application. If a license holder fails to submit a negative test result of the controlled substance abuse test to the director in accordance with this section, the director shall revoke the holder's license under Section 11 of this article.

(b) The evidence of a negative test result of a controlled substance abuse test required by this section must be from:

(1) the department's laboratory; or

(2) a laboratory accredited for drug testing by the National Institute on Drug Abuse.

(c) An applicant or license holder shall bear the cost of the controlled substance abuse test required by this section.

(d) The department shall:

(1) establish by rule a fee, which may not exceed the department's actual costs, for controlled substance abuse tests administered by the department's laboratory; and

(2) adopt other rules and develop forms necessary for the administration of this section.

(e) In this section:

(1) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(2) "Controlled substance abuse test" means a test procedure designed to take and analyze body fluids or materials from the body for the purpose of detecting the presence of controlled substances.

(3) "Negative test result" means a test result that indicates that a controlled substance is not present in the tested sample.

(2) Renumber subsequent sections accordingly.

(3) On page 18, line 27, strike "or".

(4) On page 19, line 2, strike the period and substitute:

": or

(5) fails to submit a negative test result of a controlled substance abuse test to the director as required by Section 29 of this article, unless the license holder shows a reasonable cause for failing to submit the test."

Floor Amendment No. 35

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Article 4413(29ee), Revised Statutes (House committee report, page 34, between lines 11 and 12), by adding the following new Section 32:

Sec. 32. REDUCTION OF FEES DUE TO INDIGENCY. (a) Notwithstanding any other provision of this article, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license under this article if the department determines that the applicant is indigent.

(b) The department shall require an applicant requesting a reduction of a fee to submit proof of indigency with the application materials.

(c) For purposes of this section, an applicant is indigent if the applicant's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

Floor Amendment No. 38

Amend C.S.S.B. 60 by striking proposed Section 23 of added Article 4413(29ee), Revised Statutes (House committee report, page 30, lines 16-22), and substituting the following:

Sec. 23. FUNDS. The department shall forward fees collected under this article over and above the cost of implementing the program to the comptroller of public accounts. The comptroller shall deposit the funds collected to the credit of the crime victims compensation fund.

Floor Amendment No. 39

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Article 4413(29ee), Revised Statutes (House committee report, page 34, between lines 11 and 12), by adding the following new Section 32:

Sec. 32. REDUCTION OF FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this article, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, or modified, license under this article if the applicant for the license is 60 years of age or older.

Floor Amendment No. 40

Amend C.S.S.B. 60 in SECTION 1 of the bill by adding a new Section 32 to Article 4413(29ee), Revised Statutes (House committee report, page 34, between lines 11 and 12) to read as follows:

"Sec. 32. RECIPROCAL LICENSE. On application by a person who has a valid license to carry a concealed handgun issued by another state, the department may issue to the person a license under this article without requiring that the person meet eligibility requirements or pay fees otherwise imposed under this article, but only if the department determines that:

(1) the eligibility requirements imposed by the other state are at least as rigorous as the requirements imposed by this article; and

(2) the other state provides reciprocal licensing privileges to a person who holds a license issued under this article and applies for a license in the other state."

Floor Amendment No. 41

Amend C.S.S.B. 60 as follows:

On page 34, between lines 11 and 12 insert the following:

(1) "Sec. 32. AUTHORITY OF A PEACE OFFICER TO DISARM. A peace officer who is acting in the lawful discharge of his official duties, is authorized to disarm a license holder at any time when the peace officer reasonably believes it is necessary for the protection of the license holder, peace officer or other individuals. The peace officer shall return the handgun to the license holder before discharging the license holder from the scene when the peace officer has determined that the license holder is not a threat to the peace officer, license holder or other individuals, and providing that the license holder has not violated any provisions of this Act, or any other violation that results in the arrest of the license holder."

Floor Amendment No. 42

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Article 4413(29ee), Revised Statutes (House committee report, page 34, between lines 11 and 12), by adding the following new SECTION 32:

Sec. 32. HANDGUN PROFICIENCY REQUIREMENT FOR ACTIVE OR RETIRED MILITARY PERSONNEL. Notwithstanding any other provision of this article, the department shall waive the requirement that an applicant for an original, modified, or renewed license under this article complete the handgun proficiency course and examination under Section 16 and submit a handgun proficiency certificate to the department if the applicant:

(1) is an active or honorably discharged member of the United States armed forces or the state military forces as defined by Section 431.001, Government Code; and

(2) has served in the military for more than two years.

Floor Amendment No. 43

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Article 4413(29ee), Revised Statutes (House committee report, page 34, between lines 11 and 12), by adding the following new Section 32:

Sec. 32. LAW ENFORCEMENT LICENSE INFORMATION SYSTEM. The department and the Texas Department of Transportation shall develop an automated information system for cross-referencing a license plate or driver's license number with a license issued under this article to provide a peace officer immediate access to information that a person to whom a vehicle is registered or who is displaying a driver's license has been issued a license under this article.

Floor Amendment No. 44

Amend C.S.S.B. 60 by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION ____ . Section 9.32, Penal Code, is amended to read as follows:

Sec. 9.32. DEADLY FORCE IN DEFENSE OF PERSON. (a) A person is justified in using deadly force against another:

(1) if he would be justified in using force against the other under Section 9.31;

(2) if a reasonable person in the actor's situation would not have retreated; and

(3) when and to the degree he reasonably believes the deadly force is immediately necessary:

(A) to protect himself against the other's use or attempted use of unlawful deadly force; or

(B) to prevent the other's imminent commission of aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery.

(b) The requirement imposed by Subsection (a)(2) does not apply to an actor licensed to carry a handgun under Article 4413(29ee), Revised Statutes, who uses force against a person who is at the time of the use of

force committing an offense of unlawful entry in the habitation of the actor.

Floor Amendment No. 47

Amend C.S.S.B. 60 by adding new SECTIONS 6-9 to read as follows and renumbering existing SECTIONS 6-8 of the bill as new SECTIONS 10-12:

SECTION 6. REFERENDUM ON LICENSES TO CARRY HANDGUNS. At a general election to be held on November 7, 1995, the voters shall be permitted to vote in a referendum to express their opinion on whether the Department of Public Safety should issue licenses to citizens to carry handguns.

SECTION 7. BALLOT PROPOSITION. The ballot shall be printed to permit voting for or against the proposition: "Authorizing the Department of Public Safety to license qualified citizens to carry handguns for self-protection."

SECTION 8. FORM OF BALLOT. The proposition shall be printed on the ballot beneath any proposed constitutional amendments under the heading: "Referendum Proposition." Beneath the heading shall be printed the following: "This referendum is an expression of public opinion only and has no binding effect as law."

SECTION 9. ELECTION PROCEDURE. (a) Notice of the election shall be given by inclusion of the proposition in the proclamation by the governor ordering the election on the proposed amendments to the state constitution, if any, and in the notice of that election given by each county judge. If proposed amendments to the state constitution are not to be voted on in conjunction with the referendum, notice of the election shall be given and the election shall be held in the manner applicable to a constitutional amendment election.

(b) Returns of the votes cast on the proposition shall be made and canvassed in the same manner as the returns on proposed constitutional amendments.

(c) Immediately after the results of the election are certified by the governor, the secretary of state shall transmit a copy of the certification to the lieutenant governor and the speaker of the house of representatives.

Floor Amendment No. 48

Amend C.S.S.B. 60 in SECTION 4 of the bill, in proposed Section 46.034(a), Penal Code, (House committee report, page 35, line 27), by inserting "knowingly" between "person" and "provides".

Floor Amendment No. 49

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Section 20, Article 4413(29ee), Revised Statutes, between the third and fourth sentence (House committee report, page 29, line 25), by inserting the following new sentence:

The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the person or agency making the request.

Floor Amendment No. 50

Amend C.S.S.B. 60 by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION ____ . Chapter 46, Penal Code, is amended by adding Section 46.11 to read as follows:

Sec. 46.11. PENALTY IF OFFENSE COMMITTED WITHIN WEAPON-FREE ZONE. (a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment prescribed for the next highest category of offense if it is shown on trial of the offense that the offense was committed:

(1) on the premises of a primary or secondary school subject to or eligible for accreditation by the Central Education Agency; and

(2) by a person who was carrying a concealed handgun under the authority of a license issued under Article 4413(29ee), Revised Statutes.

(b) This section does not apply to an offense under Section 46.03(a)(1).

SECTION ____ . (a) The change in law made by Section 46.11, Penal Code, as added by this Act, applies only to punishment for an offense committed on or after September 1, 1995. For purposes of this section, an offense is committed before September 1, 1995, if any element of the offense occurs before that date.

(b) Punishment under Section 46.11, Penal Code, for an offense committed before September 1, 1995, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

Floor Amendment No. 51

Amend C.S.S.B. 60, in SECTION 1 of the bill, in proposed Article 4413(29ee), Revised Statutes (House committee report, page 34, between lines 11 and 12), by adding the following new Section 32:

"Sec. 32. PUBLICATION OF LICENSING LAW. (a) Between January 1, 1996, and January 1, 1997, the department shall publish notice of the existence of this article and the eligibility requirements for obtaining a handgun license under this article at least once a month in each daily and weekly newspaper with a circulation of at least 5,000 copies per week.

(b) This section expires January 31, 1997."

Floor Amendment No. 53

Amend C.S.S.B. 60 by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION ____ . Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.047 to read as follows:

Sec. 411.047. (a) REPORTING RELATED TO CONCEALED HANDGUN INCIDENTS. The department shall maintain statistics related to responses by law enforcement agencies to incidents:

(1) in which a person licensed to carry a handgun under Article 4413(29ee), Revised Statutes, is arrested for an offense under Section 46.035, Penal Code, or discharges a handgun; and

(2) in which an investigation of alleged criminal conduct indicates that a license holder used a handgun in self-defense, in the defense of another, or in defense of property.

(b) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

Floor Amendment No. 63

Amend C.S.S.B. 60 as follows:

1. On page 37, line 4, add a new paragraph (4) to read as follows, and renumber subsequent paragraphs appropriately:

"(4) in an amusement park:"

2. On page 38, line 3, in section (f), add a new subsection (3) to read as follows:

"(3) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than 1,000,000, encompassing at least 75 acres in surface area, enclosed with access only through controlled entries, open for operation more than 120 days in each calendar year, and having security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

Floor Amendment No. 64

Amend C.S.S.B. 60 as follows:

(1) In SECTION 4 of the bill, in proposed Section 46.035(b)(4), Penal Code (House committee report, page 37, line 4), following the semicolon, strike "or".

(2) In SECTION 4 of the bill, in proposed Section 46.035(b)(5), Penal Code (House committee report, page 37, line 7), between "administration" and the period, insert the following:
"; or"

(6) on the premises of a church, synagogue, or other established or temporary place of religious worship".

Floor Amendment No. 65

Amend C.S.S.B. 60 in SECTION 4 of the bill, in proposed Section 46.035, Penal Code, (page 37, line 4), between "facility" and the semicolon by inserting "law enforcement office, or any other place where suspects are booked or held".

Floor Amendment No. 70

Amend C.S.S.B. 60 as follows:

(1) In SECTION 1 of the bill, in Section 30(a) of proposed Article 4413(29ee), Revised Statutes (House committee printing, page 34, line 2), strike "Subsection (b)" and substitute "Subsection (c)".

(2) In SECTION 1 of the bill, in Section 30 of proposed Article 4413(29ee), Revised Statutes (House committee printing, page 34, between lines 2 and 3), add a new Subsection (b) to read as follows and redesignate the existing Subsection (b) as Subsection (c):

(b) A hospital licensed under Chapter 241, Health and Safety Code, or a nursing home licensed under Chapter 242, Health and Safety Code, shall prominently display at each entrance to the hospital or nursing home, as appropriate, a sign that complies with the requirements of Subsection (c) of this section.

(3) In SECTION 4 of the bill, in proposed Section 46.035, Penal Code, after the semicolon at the end of Subsection (b)(4) (House committee printing, page 37, line 4), strike "or".

(4) In SECTION 4 of the bill, in proposed Section 46.035, Penal Code, at the end of Subsection (b)(5) (House committee printing, page 37, line 7), between "administration" and the period insert the following:
: or

(6) on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the nursing home administration

The amendments were read.

Senator Patterson moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **S.B. 60** before appointment.

Senator Leedom moved to instruct the conference committee to maintain the provision adopted by the House for a nonbinding referendum.

The motion was lost by the following vote: Yeas 8, Nays 23.

Yeas: Barrientos, Ellis, Gallegos, Leedom, Luna, Truan, West, Zaffirini.

Nays: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Turner, Wentworth, Whitmire.

(President in Chair)

Senator Moncrief moved to instruct the conference committee to maintain the language that prohibits the carrying of weapons into hospitals.

The motion was lost by the following vote: Yeas 11, Nays 20.

Yeas: Barrientos, Ellis, Gallegos, Leedom, Luna, Moncrief, Montford, Truan, Turner, West, Zaffirini.

Nays: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Lucio, Madla, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Wentworth, Whitmire.

Senator Gallegos moved to instruct the conference committee to maintain the language requiring 30 hours of training in the proper use of a handgun.

The motion was lost by the following vote: Yeas 10, Nays 21.

Yeas: Barrientos, Ellis, Gallegos, Leedom, Lucio, Luna, Truan, Turner, West, Zaffirini.

Nays: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Wentworth, Whitmire.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Patterson, Chair; Brown, Armbrister, Shapiro, and West.

GUEST PRESENTED

The President introduced to the Senate Mrs. Jill Brown, wife of Senator Brown.

The Senate welcomed Mrs. Brown.

(Senator Ellis in Chair)

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 374 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 374, Relating to the review and continuation of certain state agencies subject to the Texas Sunset Act.

On motion of Senator Armbrister and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

GUEST PRESENTED

Senator Shapiro was recognized and introduced to the Senate Football Hall of Fame member, Tony Dorsett of the Dallas Cowboys.

The Senate welcomed its distinguished guest.

HOUSE BILL 462 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 462, Relating to the application of the sales and use tax to food products sold to prison inmates.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 462 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 462** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

BILLS AND RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

H.B. 921

H.B. 1264

H.C.R. 189

COMMITTEE SUBSTITUTE

SENATE BILL 1637 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1637, Relating to the approval and use of certain life, health, and accident insurance policy forms.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 1637 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1637** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1492 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1492, Relating to the confidentiality of information derived from an audit to ascertain compliance with the payment of the hotel occupancy tax.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1492 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1492** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Montford was recognized and introduced to the Senate Cindy Leftwich of Lubbock, who was elected as Lubbock's "Senator for a Day," and her daughter, Kristina, who is serving today as an Honorary Senate Page.

The Senate welcomed its guests.

FLOOR PRIVILEGES GRANTED

On motion of Senator Montford and by unanimous consent, floor privileges were granted to Cindy Leftwich to sit at Senator Montford's desk during today's session.

COMMITTEE SUBSTITUTE SENATE BILL 558 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 558, Relating to construction contract provisions, construction trust funds, and the creation of and management policies applicable to a construction account created to hold funds associated with a construction contract; providing penalties.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 558 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 558** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1596 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1596, Relating to arbitration of alleged violations of law relating to convalescent and nursing homes and related institutions.

The bill was read second time.

(Senator Truan in Chair)

(President in Chair)

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 1596 in SECTION 1 by striking Sec. 242.253(c) in its entirety and inserting in lieu thereof the following:

(c) The cost of the arbitration shall be shared equally by the department and the institution electing arbitration. An arbitrator's fee may not exceed \$500 per day.

The amendment was read and was adopted by a viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1596 by striking SECTION 2 in its entirety and inserting in lieu thereof the following:

SECTION 2. This Act takes effect September 1, 1995, and expires August 31, 1997. It applies only to disputes described by Section 242.251, Health and Safety Code, as added by this Act, with respect to which formal proceedings are commenced on or after January 1, 1996 and August 31, 1997. An arbitration proceeding commenced prior to the expiration of the this Act is covered by the law as it existed on the date on which the proceeding was commenced, and the former law is continued in effect for this purpose.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Turner asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1596 ON THIRD READING**

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1596 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Wentworth, West, Whitmire.

Nays: Turner, Zaffirini.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Turner and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 1361 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1361, Relating to the definition of the terms "emergency medical care," "emergency care," and "emergency services."

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1361 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1361** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE**SENATE BILL 374 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 374, Relating to the review and continuation of certain state agencies subject to the Texas Sunset Act.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 374** as follows:

By deleting proposed Sec. 2.01 and 2.02 and renumbering the subsequent sections.

The amendment was read and was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Barrientos, Brown, Cain, Ellis, Gallegos, Henderson, Lucio, Luna, Moncrief, Patterson, Rosson, Shapiro, Sims, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Galloway, Harris, Haywood, Leedom, Madla, Montford, Nelson, Nixon, Ratliff, Sibley, Wentworth.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 374 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 374 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate His Excellency Pedro Luis Echeverria, Ambassador of Venezuela, and the Honorable Alejandro Perera, Consul General of Venezuela.

The Senate welcomed its distinguished guests.

(Senator Henderson in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1377 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1377, Relating to recreational easements retained by the Lower Colorado River Authority after the sale of land.

The bill was read second time and was passed to engrossment by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1377 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1377 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Harris in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 628 ON SECOND READING**

Senator Madla asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 628, Relating to access to pharmaceutical services through certain managed care health plans.

There was objection.

Senator Madla then moved to suspend the regular order of business and take up **C.S.S.B. 628** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Brown, Cain, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Luna, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Rosson, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire.

Nays: Bivins, Shapiro, Zaffirini.

Absent: Ellis, Lucio, Montford.

The bill was read second time.

(President in Chair)

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 628** as follows:

In SECTION 6, committee printing, page 2, line 35, between "do" and "apply" insert "not".

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 628 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 628** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Brown, Cain, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Luna, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Rosson, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire.

Nays: Bivins, Shapiro, Zaffirini.

Absent: Ellis, Lucio, Montford.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Bivins, Shapiro, and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 676 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 676, Relating to the prosecution for theft of certain pesticides.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 676 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 676** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 673 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 673, Relating to health care, including powers and duties of the center for rural health initiatives, powers and duties of registered nurses and physician assistants, managed health care plans for certain inmates, and health facilities and services for the elderly or disabled.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 673** as follows:

In SECTION 2, Subsection (a)(15) (committee printing, page 2, line 6), between "initiate" and "a" insert "in conjunction with the Texas State Board of Medical Examiners, the Texas Board of Nurse Examiners, the Texas Department of Health, Bureau of State Health Data and Policy Analysis, the Texas State Board of Physician Assistant Examiners, or other appropriate agencies".

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 673 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 673** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 44 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 44, Relating to the creation of an offense to limit access by children to certain firearms and to firearms safety education for schoolchildren.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 44 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 44** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

REMARKS

Senator West submitted the following remarks on **H.B. 44**:

Members, I would like to take just a moment to commend the people who have been the driving force behind this piece of legislation. The sons of Jim and Linda Tarr, and, Diane and Winsome Clements were needlessly killed due to the irresponsibility of gunowners. Since this horrible event in their lives, they have made something very positive happen. I just wanted to take a moment to recognize their efforts and let them know that the political process is alive and well and that with the passage of this bill, I hope they will feel some comfort in knowing that through their tireless efforts many lives will be saved and their sons did not die in vain.

WEST

**COMMITTEE SUBSTITUTE
SENATE BILL 1618 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1618, Relating to the certification of providers by health maintenance organizations.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1618 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1618** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1135 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1135, Relating to the Commission on Law Enforcement Officer Standards and Education.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1135** as follows:

1) In Section 415.082(a)(1), Government Code, (committee printing page 2, line 45) between "education" and "for" strike "fund" and substitute "account";

2) In Section 415.082(a)(2), Government Code, (committee printing page 2, line 47) between "education" and "for" strike "fund" and substitute "account";

3) In proposed Section 415.0845(a), Government Code, (committee printing page 2, line 58) between "the" and "to" strike "state treasury" and substitute "general revenue fund";

4) In proposed Section 415.0845(a), Government Code, (committee printing page 2, line 59) between "education" and "for" strike "fund" and substitute "account";

5) In Section 7, (committee printing page 3, line 47), add new subsection (c) to read as follows:

(c) Sections 4 and 5 of this act are not intended to create, recreate, or rededicate a revenue or fund otherwise subject to Sections 403.094 and 403.095, Government Code.

The amendment was read and was adopted by a viva voce vote.

Question—Shall **C.S.S.B. 1135** be passed to engrossment?

SENATE BILL 973 ON SECOND READING

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 973, Relating to the disclosure of certain information relating to certain patients of a physician.

The bill was read second time.

Senator Haywood offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 973** (Senate committee printing, page 1, lines 11-17), by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Section 576.005(c), Health and Safety Code, is amended to read as follows:

(c) If the treating physician has reason to believe that disclosure to a legally authorized representative would be harmful to the patient's physical, mental, or emotional health, the physician may only disclose to the legally authorized representative whether the requested records exist and whether the patient is in the facility. The treating physician shall inform the representative of the physician's belief that the release of additional information would be harmful to the patient. If the physician denies further disclosure under this subsection, the physician shall report the request to the Department of Protective and Regulatory Services and request that a protective order be obtained on behalf of the patient. If a hearing on the motion for a protective order is held, the court shall:

(1) determine what information may be disclosed and what information shall remain confidential; and

(2) issue any appropriate orders [A disclosure under Subsection (b) may not be made if the patient gives contrary written instructions to the treating physician].

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 973 ON THIRD READING

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 973** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 272 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 272, Relating to the forfeiture or destruction of weapons belonging to persons convicted of or receiving deferred adjudication for the commission of certain crimes.

The bill was read second time.

Senator Ratliff offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend S.B. 272 as follows:

On page 1, line 11, strike "of conviction".

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 272 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 272 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Bivins.

Senator Bivins moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, East Texas State University Board of Regents: JOHN R. ARMSTRONG, Fannin County; KERRY NOBLE CAMMACK, Travis County; CYNTHIA A. GONZALEZ, Dallas County; REUBEN R. McDANIEL III, Dallas County; R. JAY PHILLIPS, Nueces County; EDUARDO M. SALINAS, Willacy County; NELDA GRIGSBY STRONG, Travis County.

Members, Texas Board of Health: DR. RAMIRO R. CASSO, Hidalgo County; MARY CHURCHILL CEVERHA, Dallas County; DAVID L. COLLINS, Fort Bend County; RUTH F. STEWART, Bexar County; BETSY TRIPLETT-HURT, Ector County.

Members, Board of Pardons and Paroles: GERALD L. GARRETT, Travis County; DONNA D. GILBERT, Walker County; DANIEL RAY LANG, Harris County; THOMAS W. MOSS, Potter County; CHIEF VICTOR RODRIGUEZ, Cameron County; BRENDOLYN ROGERS-GARDNER, Dallas County; CYNTHIA S. TAUSS, Galveston County; W. G. "BILLY" WALKER, Smith County.

Members, Texas Public Finance Authority Board of Directors: DANIEL H. BRANCH, Dallas County; CHERYL D. CREUZOT, Harris County; JOHN C. KERR, Bexar County.

Members, State Board of Barber Examiners: ERNEST W. PACK, SR., McLennan County; JANIS ELIZABETH WIGGINS, Llano County; CHARLES E. WILLIAMS, SR., Bexar County.

Judge of the 256th Judicial District Court, Dallas County: JUDGE BRENDA GARRETT GREEN, Dallas County.

SENATE BILL 9 WITH HOUSE AMENDMENTS

Senator Armbrister called **S.B. 9** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **S.B. 9** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the functions and systems and programs administered by the Teacher Retirement System of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 821.001(7) and (15), Government Code, are amended to read as follows:

(7) "Employer" means ~~[the state or]~~ any ~~[of its designated]~~ agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, ~~[the State Board of Education, the Central Education Agency,]~~ the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education and the Central Education Agency.

(15) "School year" means:

(A) a 12-month period beginning approximately September 1 and ending approximately August 31 of the next calendar year; or

(B) for a member whose contract or oral or written work agreement begins after June 30 and continues after August 31 of the same calendar year, a period not to include more than 12 months beginning on the date the contract or agreement begins.

SECTION 2. Subchapter A, Chapter 821, Government Code, is amended by adding Section 821.007 to read as follows:

Sec. 821.007. CONTROL OF HOME OFFICE FACILITIES. The buildings comprising the home office of the retirement system are under the control and custodianship of the retirement system, but the retirement system shall:

(1) comply with space use regulations provided by Section 6.021, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes); the General Appropriations Act; or other state law; and

(2) lease to other persons at fair market value all significant unused space in the buildings.

SECTION 3. Subchapter A, Chapter 821, Government Code, is amended by adding Section 821.008 to read as follows:

Sec. 821.008. PURPOSE OF RETIREMENT SYSTEM. The purpose of the retirement system is to invest and protect funds of the retirement system and to deliver the benefits provided by statute, not to advocate or influence legislative action or inaction or to advocate higher benefits.

SECTION 4. Section 822.003, Government Code, is amended to read as follows:

Sec. 822.003. TERMINATION OF MEMBERSHIP. (a) A person terminates membership in the retirement system by:

(1) death;

(2) retirement;

(3) withdrawal of all of the person's contributions while the person is absent from service; or

(4) not qualifying for service credit [absence from service] for [more than] five consecutive years [within a six-year period].

(b) Termination of membership under Subsection (a)(4) is effective on the first September 1 that occurs after the non-qualifying years. If a person, regardless of age, has five or more years of service credit, failure to qualify for additional service credit [absence from service] does not terminate membership in the retirement system unless all of the person's contributions are withdrawn.

(c) A person does not terminate membership under Subsection (a)(4) [is not absent from service] if the person:

(1) is performing military service creditable in the retirement system; [or]

(2) is on leave of absence from employment in a public school; or

(3) is earning service credit in another retirement system covered by Chapter 803 or 805.

SECTION 5. Section 822.201, Government Code, is amended by adding Subsection (d) to read as follows:

(d) For a person who first becomes a member of the retirement system after August 31, 1996, the person's annual compensation for purposes of the retirement system may not exceed the limit imposed by Section 401(a)(17) of the Internal Revenue Code of 1986 (Title 26, United States Code), as adjusted by the commissioner of internal revenue for cost-of-living increases in accordance with that provision. This limit does not apply to a person who first became a member of the retirement system before September 1, 1996.

SECTION 6. Section 823.002, Government Code, is amended to read as follows:

Sec. 823.002. SERVICE CREDITABLE IN A YEAR. The board of trustees by rule shall determine how much service in any year is equivalent

to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

SECTION 7. Subchapter A, Chapter 823, Government Code, is amended by adding Sections 823.004 and 823.005 to read as follows:

Sec. 823.004. COMPUTATION OF AND PAYMENT FOR CREDIT. All credit for military service, out-of-state service, developmental leave, service previously waived, and service transferred to the retirement system under Chapter 805 shall be computed on a September 1 through August 31 school year. Payments for service described by this section must be completed not later than the later of the member's retirement date or the last day of the month in which the member submits a retirement application.

Sec. 823.005. ACCEPTANCE OF ROLLOVERS AND TRANSFERS FROM OTHER PLANS. Subject to rules adopted by the board of trustees, the retirement system shall accept an eligible rollover distribution or a direct transfer of funds from another qualified plan in payment of all or a portion of any deposit a member is permitted to make with the system for credit for service. The rules adopted by the board shall condition the acceptance of a rollover or transfer from another plan on the receipt from the other plan of information necessary to enable the retirement system to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

SECTION 8. Section 823.302(b), Government Code, is amended to read as follows:

(b) A member eligible to establish military service credit is one who has at least five years of service credit in the retirement system for actual service in public schools, except that a member meeting this condition does not qualify for insurance coverage under the Texas Public School Employees Group Insurance Act (Article 3.50-4, Insurance Code) until the member has 10 or more years of membership service credit.

SECTION 9. Section 823.304, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The board of trustees may adopt rules that modify the terms of this section for the purpose of compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

SECTION 10. Section 823.401, Government Code, is amended by amending Subsection (d) and adding Subsection (i) to read as follows:

(d) A member may establish credit under this section by depositing with the retirement system for each year of service claimed a contribution computed at the rate of:

(1) 12 percent of the rate of the member's annual compensation during the first year of service for which the member received membership credit in [as a member of] the retirement system that is both after the service for which credit is sought and after September 1, 1956; or

(2) 12 percent of the rate of the member's annual compensation during the most recent year of service for which the member received membership credit ~~[as a member]~~ that is after the service for which credit is sought, if the member has performed no service in Texas since September 1, 1956.

(i) In determining the amount of a contribution under Subsection (d) required of a member who did not work full time or worked fewer days or months than full-time employees in similar positions, the retirement system shall compute an annual rate of compensation from the member's reported compensation.

SECTION 11. Section 824.002, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) The effective date of a member's service retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.201;

(2) the month in which the member satisfies age and service requirements for service retirement as provided by Section 824.202; or

(3) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(b) The effective date of a member's disability retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.301; or

(2) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(e) Not later than the later of a member's retirement date or the last day of the month in which the member's application for retirement is submitted, a member applying for service retirement may reinstate withdrawn contributions; make deposits for service previously waived, military service, and equivalent membership service; and receive service credit as provided by this subtitle.

(f) An effective retirement date may not be changed after it is established except by revocation of retirement under Section 824.005 and retirement at a later date.

SECTION 12. Section 824.003, Government Code, is amended to read as follows:

Sec. 824.003. WHEN BENEFITS ARE PAYABLE. Except as otherwise provided by this chapter, an annuity provided by this chapter is ~~[not]~~ payable for the month in which the person who receives the annuity dies. Monthly annuity payments are generally due to be paid on the first working day of each month following the month for which the payment accrues.

SECTION 13. Section 824.005(a), Government Code, is amended to read as follows:

(a) A person who has retired under the retirement system may revoke that retirement by filing with the system a written revocation in a form prescribed by the system. For a revocation to be effective, the retirement system must receive the written revocation before the later of the due date for the first payment of the annuity or the date on which the retirement system makes the first payment. ~~After the later of those dates, a retiree may not revoke the retirement. For purposes of this subtitle, the retirement system makes a payment by depositing a check in the mail or sending payment by electronic fund transfer [46th day after the original date of retirement, and the person must return to the system an amount equal to the amount of benefits received under the original retirement. The period for revocation of a disability retirement under this subsection begins on the date the medical board certifies the disability if the date is later than the date of retirement].~~

SECTION 14. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.006 to read as follows:

Sec. 824.006. PAYMENT OF ANNUITY ON DEATH OF MEMBER OR RETIREE. (a) A monthly annuity payable to a retiree or beneficiary is payable to that person through the month in which the person dies. A continuation of an optional annuity or the payment of a death or survivor benefit annuity begins with payment for the month following the month in which the death occurs.

(b) The effective date of death of a member who dies before retirement is, for the purpose of a death or survivor benefit annuity, the last day of the month preceding the month in which the member dies. The first payment of the annuity becomes due at the end of the month in which the member's death occurs.

SECTION 15. Section 824.101(c), Government Code, is amended to read as follows:

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, and a designation of beneficiary under either of those options may not be made, changed, or revoked after the later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due. For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

SECTION 16. Section 824.103(a), Government Code, is amended to read as follows:

(a) Benefits payable on the death of a member or annuitant, except an optional retirement annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, are payable, and rights to elect survivor benefits, if applicable, are available, to one of the classes of persons described in Subsection (b), if:

- (1) the member or annuitant fails to designate a beneficiary before death;
- (2) a designated beneficiary does not survive the member or annuitant; or

(3) a designated beneficiary, under Section 824.004, waives claims to benefits payable on the death of the member or annuitant.

SECTION 17. Section 824.104(a), Government Code, is amended to read as follows:

(a) If, before the first anniversary of the death of a member or annuitant, the retirement system does not receive a claim for payment of benefits from a designated beneficiary or a person entitled to benefits under Section 824.103, the retirement system may pay benefits, except an optional retirement annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, under the order of precedence in Section 824.103(b), as if the person failing to claim benefits had predeceased the decedent.

SECTION 18. Section 824.201(b), Government Code, is amended to read as follows:

(b) At any time before the retirement system makes the first annuity payment or the first annuity payment becomes due ~~[effective date of retirement]~~, a member may, by filing written notice with the board of trustees, revoke the member's application for retirement or make, revoke, or change a selection of an optional service retirement annuity available as provided by Section 824.204.

SECTION 19. Sections 824.202(a), (d), and (f), Government Code, are amended to read as follows:

(a) A member is eligible to retire and receive a standard service retirement annuity if the member:

(1) is at least 65 years old and has at least five years of service credit in the retirement system; ~~[or]~~

(2) is at least 60 years old and has at least 20 years of service credit in the retirement system; or

(3) is at least 50 years old and has at least 30 years of service credit in the retirement system.

(d) If a member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of a percentage of the standard service retirement annuity available under Subsection ~~(a)(3)~~ ~~[(a)(2)]~~, derived from the table in Subsection (c). The board of trustees shall extend the table in Subsection (c) to ages earlier than 50 ~~[55]~~ years by decreasing the percentages by two percent for each year of age under 50 ~~[55]~~ years.

(f) Except as provided by Chapter 803 or 805 ~~[the proportionate retirement program in Subtitle A]~~, a member is not eligible to receive service retirement benefits from the retirement system unless the member has at least five years of service credit in the retirement system for actual service in public schools.

SECTION 20. Section 824.203, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsections (c), ~~[and] (d), and (e)~~, the standard service retirement annuity is an amount computed on the basis of the member's average annual compensation for the three years of service, whether or not consecutive, in which the member received the highest

annual compensation, times two percent for each year of service credit in the retirement system.

(e) The annual standard service retirement annuity for a person who immediately before retirement holds a position as a classroom teacher or full-time librarian, or the annual death benefit annuity based on the service of a member who at the time of death held a position as a classroom teacher or full-time librarian, may not be less than an amount computed on the basis of the minimum annual salary provided by the Education Code for a classroom teacher or full-time librarian, multiplied by two percent for each year of service credit in the retirement system.

SECTION 21. Subchapter C, Chapter 824, Government Code, is amended by adding Section 824.2031 to read as follows:

Sec. 824.2031. BENEFIT IMPROVEMENTS. (a) Each regular legislative session, the legislature shall determine whether the performance of the retirement system trust fund makes the fund capable of supporting improvements in the plan of benefits.

(b) A determination under this section shall be founded on the information in the most recent report of an investment performance audit conducted under Section 825.512 and the application of that information to:

(1) the present amortization period for liabilities of the retirement system;

(2) the rate of return on retirement system investments over and above the rate of inflation of the investment portfolio as a whole, of the portion of the investment portfolio entrusted to private investment entities, and of the portion of the investment portfolio entrusted to investment officers who are employees of the retirement system;

(3) economic projections of market conditions and future investment rates of return as reflected in the comptroller's most recent economic forecast and revenue estimate;

(4) the costs, including changes in the amortization period for liabilities of the retirement system, of providing cost-of-living or other increases in benefits to current annuitants; and

(5) an evaluation of the diversity of retirement system investments and whether the portfolio provides low-risk, long-term growth.

SECTION 22. Sections 824.204(c) and (e), Government Code, are amended to read as follows:

(c) An eligible member may select one of the following options, which provide that:

(1) after the retiree's death, the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary; [or]

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement.

(c) The increase in the annuity under Subsection (d)[-

[(1)] begins with the payment due at the end of September, 1995, or the first monthly payment made to the retiree following the date of death of the person nominated, whichever is later, and is payable to the retiree for the remainder of the retiree's life[-and

[(2) applies only to a member who retires after August 31, 1989].

SECTION 23. Sections 824.304(a) and (b), Government Code, are amended to read as follows:

(a) If a member has a total of less than 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person a disability retirement annuity of \$150 [~~\$50~~] a month for the shortest of the following periods:

(1) the duration of the disability;

(2) the number of months of creditable service the person has at retirement; or

(3) the duration of the person's life.

(b) If a member has a total of at least 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person for the duration of the disability a disability retirement annuity in an amount equal to the greater of:

(1) a standard service retirement annuity computed under Section 824.203 [~~824.203(a)~~]; or

(2) \$6.50 a month for each year of service credit on the date of retirement; or

(3) \$150 a month.

SECTION 24. Sections 824.308(a), (b), (c), and (d), Government Code, are amended to read as follows:

(a) Instead of an annuity payable under Section 824.304(b), a member retiring under that section may elect to receive an optional disability retirement annuity under this section. An election to receive an optional disability retirement annuity must be filed with the board of trustees not later than the later of the effective date of retirement or the date the member applies for retirement.

(b) An optional disability retirement annuity is an annuity payable throughout the disability of the disability retiree and is actuarially reduced from the annuity otherwise payable under Section 824.304(b) [~~Sections 824.304(b)(1) and (b)(2)~~] to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible member may select one of the following options:

(1) after the disability retiree's death, the reduced annuity is payable throughout the life of a person nominated by the retiree's written designation under Section 824.101 filed before retirement;

(2) after the disability retiree's death, one-half of the reduced annuity is payable throughout the life of the retiree's designated beneficiary;

(3) if the disability retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary; ~~or~~

(4) if the disability retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; ~~or~~

(5) after the disability retiree's death, three-fourths of the reduced annuity is payable throughout the life of the retiree's designated beneficiary.

(d) If the person nominated by ~~the~~ disability retiree's written designation under Section 824.101 filed before ~~or at the time of~~ retirement predeceases the disability retiree, the reduced annuity of a disability retiree who has elected an optional retirement annuity under Subsection (c)(1), ~~(c)(2), or (c)(5) [or (2)]~~ is increased to the standard retirement annuity that the disability retiree would otherwise be entitled to receive if the disability retiree had not selected an annuity option. The standard retirement annuity shall be adjusted as appropriate for postretirement increases in retirement benefits authorized by law after the date of retirement.

SECTION 25. Section 824.402(a), Government Code, is amended to read as follows:

(a) Except as provided by Section 824.401, the designated beneficiary of a member who dies during a school year in which the member has performed service is eligible to receive at the beneficiary's election the greatest of the following amounts:

(1) an amount equal to twice the member's annual compensation for the school year immediately preceding the school year in which the member dies, or \$80,000 ~~[\$60,000]~~, whichever is less;

(2) an amount equal to twice the member's rate of annual compensation for the school year in which the member dies, or \$80,000 ~~[\$60,000]~~, whichever is less;

(3) 60 monthly payments of a standard service retirement annuity, computed as provided by Section 824.203 ~~[824.203(a)]~~;

(4) an optional retirement annuity for the designated beneficiary's life in an amount computed as provided by Section 824.204(c)(1) as if the member had retired on the last day of the month immediately preceding the month in which the member dies; or

(5) an amount equal to the amount of accumulated contributions in the member's individual account in the member savings account.

SECTION 26. Sections 824.503(a) and (c), Government Code, are amended to read as follows:

(a) If a retiree dies while receiving a standard or reduced service retirement annuity as provided by Section 824.202 or an optional service retirement annuity as provided by Section 824.204(c)(1), ~~[or (c)(2), or (c)(5)]~~ and, in the case of a retiree receiving an optional service

retirement annuity, if the retiree's designated beneficiary of the annuity has predeceased the retiree, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made before the retiree's death.

(c) If a retiree's designated beneficiary dies while receiving an optional annuity under Section 824.204(c)(1), ~~[or] (c)(2), or (c)(5)~~, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made to the retiree and the designated beneficiary before the beneficiary's death.

SECTION 27. Section 824.505(a), Government Code, is amended to read as follows:

(a) Amounts payable by the retirement system to an annuitant that are not received by that annuitant or the annuitant's bank, as determined by the retirement system, before the annuitant's death may be paid to the person named to receive benefits in the event of the annuitant's death, in accordance with rules adopted by the board of trustees. The retirement system may send a final monthly payment of an annuity to a bank or another address previously indicated by the annuitant or beneficiary.

SECTION 28. Section 824.602(a), Government Code, is amended to read as follows:

(a) The retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, [if] the employment has not exceeded a total of [120 days in the school year or, for a disability retiree,] 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if:

(A) the work occurs in a school year that begins after the retiree's effective date of retirement;

(B) the work occurs in no more than six months of the school year; and

(C) the retiree executes on a form and within any deadline prescribed by the retirement system a written election to have this exception apply for the school year in determining whether benefits are to be suspended for employment after retirement; or

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree.

SECTION 29. Section 825.002(b), Government Code, is amended to read as follows:

(b) The governor shall appoint three members of the board to hold office for staggered terms, with the term of one trustee expiring on August 31 of each odd-numbered year. These [Two of those three]

members must be persons who have demonstrated financial expertise, who have worked in private business or industry, and who have broad investment experience, preferably in investment of pension funds. None of the members appointed under this subsection may be a member or annuitant of the retirement system.

SECTION 30. Section 825.003, Government Code, is amended to read as follows:

Sec. 825.003. TRUSTEES APPOINTED BY GOVERNOR FROM NOMINEES OF BOARD OF EDUCATION. The governor [State Board of Education] shall appoint two members of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These members must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience, preferably in investment of pension funds.

SECTION 31. Sections 825.0032(a), (b), and (f), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), a person is not eligible for appointment to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; ~~[or]~~

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the retirement system, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) Subsection (a) does not apply to employment by, participation in the management of, or ownership or control of an interest in a business entity or other organization on behalf of the retirement system. Subsection (a)(3) does not apply to a person who is nominated for appointment under Section 825.002(c), (d), or (e).

(f) A person may not serve as a trustee or act as the general counsel to the board or the retirement system if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

SECTION 32. Subchapter A, Chapter 825, Government Code, is amended by adding Section 825.0041 to read as follows:

Sec. 825.0041. BOARD MEMBER TRAINING. (a) Before a member of the board may assume the member's duties and, if applicable, before the member may be confirmed by the senate the member must complete at least one course of the training program established under this section.

(b) A training program established under this section shall provide information to the member regarding:

(1) the enabling legislation that created the retirement system and its policy-making body to which the member is appointed to serve;

- (2) the programs operated by the system;
- (3) the role and functions of the system;
- (4) the rules of the system with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the system;
- (6) the results of the most recent formal audit of the system;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551;
 - (B) open records law, Chapter 552; and
 - (C) administrative procedure law, Chapter 2001;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

SECTION 33. Section 825.006, Government Code, is amended to read as follows:

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 1999 [1995] are reviewed or, if the retirement system's operating expenses are not subject to the appropriations process on September 1, 1995, the board shall be reviewed during the period in which state agencies abolished in 1997 are reviewed. This section expires September 1, 1999 [1995].

SECTION 34. Sections 825.010(a) and (c), Government Code, are amended to read as follows:

(a) It is a ground for removal from the board if a trustee:

- (1) does not have at the time of appointment the qualifications required for the trustee's position;
- (2) does not maintain during service on the board the qualifications required for the trustee's position;
- (3) violates a prohibition established by Section 825.002(b) or 825.0032;
- (4) [(2)] cannot because of illness or disability discharge the trustee's [person's] duties for a substantial part of the term for which the trustee [person] is appointed [because of illness or disability]; or
- (5) [(3)] is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer [chairman] of the board of the ground. The presiding officer [chairman] shall then notify the appropriate appointing officer and the attorney general [or body] that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the board, who shall notify the appropriate appointing officer and the attorney general that a potential ground for removal exists.

SECTION 35. Section 825.108, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the retirement system during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(f) The board shall prepare biennially a complete and detailed written report describing and explaining any use of appropriated amounts, retirement system assets, or other resources for governmental relations, member counseling, or official publications. The report must be filed with the committees of the senate and the house of representatives having jurisdiction over appropriations, with the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and with the Legislative Budget Board at the time the retirement system submits its budget request for the next state fiscal biennium.

SECTION 36. Sections 825.113(a), (b), and (f), Government Code, are amended to read as follows:

(a) The executive director or the executive director's designee [board] shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly separate the policy-making [define the respective] responsibilities of the board and the management responsibilities of the executive director and the staff of the retirement system.

(f) The retirement system shall comply with federal and state laws related to program and facility accessibility. The executive director [board] shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

SECTION 37. Subchapter B, Chapter 825, Government Code, is amended by adding Section 825.115 to read as follows:

Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. The board is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

SECTION 38. Section 825.201, Government Code, is amended to read as follows:

Sec. 825.201. PRESIDING OFFICER [CHAIRMAN]. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor. [The board of trustees shall elect a chairman. The chairman must be a member of the board.]

SECTION 39. Section 825.206, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Each actuarial experience study must include a review of all actuarial assumptions in light of relevant experience, important trends, and economic projections. Interrelated actuarial assumptions shall be reviewed carefully to ensure that adjustments in one assumption are reflected appropriately in related assumptions.

(e) Each actuarial valuation must include a detailed analysis comparing experience factors to their actuarial assumptions. The analysis shall be developed and reported to identify significant variations in actual experience from what was assumed. A material variation should be the focus of an actuarial experience study.

SECTION 40. Sections 825.213(a), (b), and (c), Government Code, are amended to read as follows:

(a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the retirement system. The program shall require intra-agency posting of all ~~[nonentry-level]~~ positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code [the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes)];

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of ~~[significant]~~ underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of ~~[significant]~~ underuse.

SECTION 41. Subchapter C, Chapter 825, Government Code, is amended by adding Section 825.215 to read as follows:

Sec. 825.215. ADVOCACY PROHIBITED. An employee of the retirement system may not advocate increased benefits or engage in activities to advocate or influence legislative action or inaction. Advocacy or activity of this nature is grounds for dismissal of an employee.

SECTION 42. Section 825.306, Government Code, is amended to read as follows:

Sec. 825.306. CREDITING SYSTEM ASSETS. The assets of the retirement system shall be credited, according to the purpose for which they are held, to one of the following accounts:

- (1) member savings account;
- (2) state contribution account;
- (3) retired reserve account;
- (4) ~~benefit increase reserve account;~~
- ~~[(5)]~~ interest account; or
- ~~(5) [(6)]~~ expense account.

SECTION 43. Section 825.309(b), Government Code, is amended to read as follows:

(b) The retirement system shall use money in the retired reserve account to pay all retirement annuities and all death or survivor benefits, including postretirement benefit increases and other adjustments to annuities [except those paid under Section 825.310(b)].

SECTION 44. Sections 825.312, 825.313, and 825.314, Government Code, are amended to read as follows:

Sec. 825.312. EXPENSE ACCOUNT. (a) The retirement system shall deposit in the expense account:

(1) money transferred from the interest account under Section 825.313(c) [all membership fees required by this subtitle, including the fees under Section 823.3021(f)(2);

[(2) money required to be deposited in the account by Section 825.313(b)(3) or 825.313(c)]; and

(2) ~~[(3)]~~ money received from the Texas Public School [Retired] Employees Group Insurance Program for service performed for the program by the retirement system.

(b) The retirement system shall pay from the account all administrative expenses of [administration and maintenance of] the retirement system that exceed the amounts appropriated under Section 825.404(d) and that are required to perform the fiduciary duties of the board.

Sec. 825.313. TRANSFERS FROM INTEREST OR STATE CONTRIBUTION ACCOUNT. (a) Annually, the retirement system shall transfer from the interest account to the state contribution account amounts accumulated under Section 825.311(2).

(b) On August 31 of each year, the retirement system shall make the following transfers from the interest account:

(1) to the member savings account, an amount computed using the rate prescribed by Section 825.307(b);

(2) to the retired reserve account, an amount equal to 4 3/4 percent of the average balance of the retired reserve account for that fiscal year or, if the transfer is authorized by resolution of the board, an amount computed at a greater rate if the actuary recommends the greater rate to adequately fund the retired reserve account;

~~[(3) to the expense account, an amount designated by the board of trustees in accordance with Subsection (c);~~

~~[(4) to the benefit increase reserve account, an amount representing interest on the average annual balance of the benefit increase~~

~~reserve account at a rate set by the board of trustees in accordance with Section 825.106;~~ and

(3) ~~[(5)]~~ to the state contribution account, the amount remaining in the interest account after the other transfers required or authorized by this section are made.

(c) The board of trustees, by resolution recorded in its minutes, may ~~[shall]~~ transfer from the interest account to the expense account an amount necessary to cover the expenses of the retirement system for the fiscal year that exceed the amount of operating expenses appropriated under Section 825.404(d) and that are required to perform the fiduciary duties of the board, including the expense of servicing mortgages insured by the Federal Housing Administration under the National Housing Act (12 U.S.C. Section 1701 et seq.).

Sec. 825.314. USE AND REPORTING OF STATE CONTRIBUTIONS AND OTHER APPROPRIATIONS AND ASSETS. (a) The retirement system shall use all assets contributed by the state, other than operating expenses appropriated under Section 825.404(d), to pay benefits authorized by this subtitle.

(b) The staff of the retirement system shall report to the board at each board meeting the amounts and uses since the preceding board meeting of any money expended by the system from amounts transferred under Section 825.313(c) and include an explanation of why the amounts were needed to perform the fiduciary duties of the board. The retirement system annually shall prepare and issue to each contributing member and annuitant and to the governor, lieutenant governor, and speaker of the house of representatives a summary of the reports presented during the preceding year to the board.

SECTION 45. Subchapter D, Chapter 825, Government Code, is amended by adding Section 825.315 to read as follows:

Sec. 825.315. PROHIBITED USE OF ASSETS. Assets of the retirement system may not be used to advocate or influence the outcome of an election or the passage or defeat of any legislative measure. This prohibition may not be construed to prevent any trustee or employee from furnishing information in the hands of the trustee or employee that is not considered confidential under law to a member or committee of the legislature, to any other state officer or employee, or to any private citizen, at the request of the person or entity to whom the information is furnished. This prohibition does not apply to the incidental use of retirement system facilities by groups of members or retirees or by officers or employees of state agencies.

SECTION 46. Section 825.403, Government Code, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b) Each employer or the employer's designated disbursing officer, at a time and in a form prescribed by the retirement system, shall send to the executive director all deductions and a certification of earnings of each member employed by the employer. An employer shall use electronic fund transfer to send deductions required by this section or shall certify to the

retirement system either that the employer is unable to establish a qualifying account at a financial institution or that payment by electronic fund transfer would be impractical or more costly than payment by paper check.

(i) If deductions were previously required of a member but not paid, proof of service must be made before service credit is granted or payment for the credit is required. Proof of service is sufficient if the member's employer documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. A member may submit in lieu of employer documentation internal revenue, social security, bank, or other written records that were made at or near the time of service and that establish the amount of time worked and salary earned. An affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. The retirement system may audit records used for documentation under this subsection.

SECTION 47. The heading of Section 825.404, Government Code, is amended to read as follows:

Sec. 825.404. COLLECTION OF STATE CONTRIBUTIONS AND APPROPRIATED OPERATING EXPENSES.

SECTION 48. Section 825.404, Government Code, is amended by redesignating and amending Subsection (d) as Subsection (e) and adding new Subsection (d) to read as follows:

(d) The legislature shall appropriate from the general revenue fund a specified amount of money to be used to pay operating expenses of the retirement system for each fiscal year.

(e) ~~(d)~~ All money appropriated by the state to the retirement system shall be paid to the state contribution account in equal monthly installments as provided by Section 403.093(c), Government Code, except money appropriated under Subsection (d), which remains in the general revenue fund until expenses are approved under Chapter 2103.

SECTION 49. Section 825.503, Government Code, is amended to read as follows:

Sec. 825.503. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film, or use electronic storage for, all records pertaining to a member's individual file, accounting records, district report records, and investment records. The retirement system may receive any record or report on paper or film or in an electronic storage format.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction or electronic record in a file conveniently accessible to retirement system personnel ~~[in conveniently accessible files]~~; and

(2) provides for the preservation, examination, and use of the reproduction or stored electronic record.

(c) A photograph, microphotograph, ~~[or]~~ film, or electronic record of a record received or reproduced under Subsection (a) is equivalent to the

original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, [or] film, or electronic record is admissible as evidence equally with the original photograph, microphotograph, [or] film, or electronic record.

(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, [or] film, or electronic record of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, [or] film, or electronic record as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

(f) In this section:

(1) "Electronic storage" means the maintenance of record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar medium readable by machine.

(2) "Electronic record" means any information that is recorded in a form for computer processing.

SECTION 50. Section 825.504, Government Code, is amended to read as follows:

Sec. 825.504. EMPLOYER CERTIFICATION TO BOARD. (a) An employer annually shall certify to the board of trustees the beginning date of the contract of each member whose contract year begins after June 30 and continues after August 31 of the same calendar year.

(b) For school years after the 1994-95 school year, an employer annually shall certify to the board of trustees the beginning date of an oral or written work agreement that begins after June 30 and continues after August 31 of the same calendar year.

(c) Each reporting district shall cooperate with the retirement system in ascertaining a member's annual earnings during any year. The board of trustees by rule may prescribe the form of and procedures for filing certifications required by this section.

SECTION 51. Section 825.506(a), Government Code, is amended to read as follows:

(a) It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Notwithstanding any other provision of this subtitle, benefits provided to a retiree, or based on the service of a member or retiree, may not exceed benefits permitted to be provided by a qualified plan by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The board of trustees may adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and shall adopt rules to ensure that benefits paid to a retiree, or to a beneficiary of a member or retiree, do not exceed the limits provided by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). Rules adopted by the board of trustees are to be considered a part of the plan.

SECTION 52. Section 825.508(b), Government Code, is amended to read as follows:

(b) The system must honor a power of attorney executed in accordance with Chapter XII [†], Section 490 [36A], Texas Probate Code.

SECTION 53. Section 825.511, Government Code, is amended to read as follows:

Sec. 825.511. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve. The system shall provide to the person filing the complaint and the persons or entities complained about the system's policies and procedures pertaining to complaint investigation and resolution. The system, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(b) The retirement system shall keep information about each complaint filed with the system. The information shall include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the system took no action, an explanation of the reason the complaint was closed without action. [If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.]

SECTION 54. Subchapter F, Chapter 825, Government Code, is amended by adding Sections 825.512, 825.513, 825.514, and 825.515 to read as follows:

Sec. 825.512. INVESTMENT PERFORMANCE AUDIT. (a) The legislative audit committee biennially shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the retirement system's investment practices and performance.

(b) The legislative audit committee shall determine specific areas to be evaluated, but the first evaluation must be a comprehensive analysis of the retirement system's investment program.

(c) A report of an evaluation under this section shall be filed with the legislative audit committee not later than December 1 of each even-numbered year.

(d) The retirement system shall pay the costs of each evaluation under this section.

(e) The retirement system shall submit an annual investment performance report not later than the 25th day of the month following each

fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the legislative audit committee, the committees of the senate and the house of representatives having jurisdiction over appropriations, the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and the Legislative Budget Board. The report shall include a listing of all commissions and fees paid by the system during the reporting period for the sale, purchase, or management of system assets. The report shall be in a form recommended by the evaluating firm.

Sec. 825.513. INFORMATION FOR PUBLICATION. The retirement system shall verify with the State Pension Review Board the accuracy of information about the effects of proposed legislation on benefits and the trust fund before including the information in an official publication of the retirement system.

Sec. 825.514. HISTORICALLY UNDERUTILIZED BUSINESSES. The retirement system is subject to the provisions, including Sections 1.03 and 3.10, of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), that relate to historically underutilized businesses.

Sec. 825.515. INFORMATION ABOUT MEMBER POSITIONS. (a) The retirement system shall acquire and maintain records identifying members and the types of positions they have held as members, the length of service in each type of position, and whether service in each type of position is or was as a full-time employee. The retirement system shall cooperate with the commissioner of education in maintaining information about the employment status of members of the retirement system.

(b) Each school year, the retirement system shall provide to the commissioner of education information, of a type and in a form determined by the commissioner, that allows contributing members of the retirement system to be identified in information submitted to the commissioner by school districts under the Education Code.

(c) Information contained in records of the retirement system maintained under this section is confidential within the limits prescribed by Section 825.507.

SECTION 55. Section 1, Article 3.50-4, Insurance Code, is amended to read as follows:

Sec. 1. SHORT TITLE. This article may be cited as the Texas Public School [Retired] Employees Group Insurance Act.

SECTION 56. Sections 2(3) and (4), Article 3.50-4, Insurance Code, are amended to read as follows:

(3) "Dependent" means:

(A) a spouse of a retiree or active member;

(B) a retiree's, an active member's, or a deceased active member's unmarried child who is younger than 25 years of age including:

(i) an adopted child;

(ii) a foster child, a stepchild, or other child who is in a regular parent-child relationship; and

(iii) a recognized natural child; and

(C) a retiree's or active member's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or whose care is provided by the retiree, active member, or surviving spouse on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to be dependent on the retiree, active member, or surviving spouse for care or support, as determined by the trustee, or in the case of a deceased active member, a recognized natural child, adopted child, foster child, stepchild, or other child who was in a regular parent-child relationship and who lived with or whose care was provided by the deceased active member on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to have been dependent on the deceased active member or surviving spouse for care or support, as determined by the trustee.

(4) "Fund" means the Texas public school [~~retired~~] employees group insurance fund.

SECTION 57. Section 3(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) The Texas Public School [~~Retired~~] Employees Group Insurance Program is established to provide for an insurance plan or plans under this article.

SECTION 58. Section 5(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) The trustee may adopt rules, plans, procedures, and orders reasonably necessary to implement this article, including:

(1) establishment of minimum benefit and financing standards for group insurance coverage to be provided to all retirees, active employees, dependents, surviving spouses, and surviving dependent children;

(2) establishment of basic and optional group coverage to be provided to retirees, active employees, dependents, surviving spouses, and surviving dependent children;

(3) establishment of the procedures for contributions and deductions;

(4) establishment of periods for enrollment and selection of optional coverage and procedures for enrolling and exercising options under the plan;

(5) determination of methods and procedures for claims administration;

(6) study of the operation of all insurance coverage provided under this article;

(7) administration of the fund;

(8) adoption of a timetable for the development of minimum benefit and financial standards for group insurance coverage, establishment of group insurance plans, and the taking of bids for and awarding of contracts for insurance plans; and

(9) contracting with an independent and experienced group insurance consultant or actuary, who does not receive insurance

commissions from any insurance company, for advice and counsel in implementing and administering this program.

SECTION 59. Article 3.50-4, Insurance Code, is amended by adding Section 7A to read as follows:

Sec. 7A. PARTICIPATION BY ACTIVE EMPLOYEES. (a) A public school district may elect to participate in the program provided under this article. A district that elects to participate must accept the schedule of costs adopted by the trustee and may not offer an alternative health benefit plan to its active employees during the period of its participation in the program.

(b) The trustee by rule shall provide:

(1) eligibility requirements for participation by a school district, which may include criteria based on size;

(2) restrictions on the ability of a school district to begin or discontinue participation, which may include a minimum period of participation and limited periods for elections to begin or discontinue participation;

(3) administrative fees to be paid by participating school districts to cover the trustee's administrative costs in extending the program to active employees; and

(4) requirements to minimize the effects of adverse selection on the program.

(c) The trustee shall provide optional group coverages for active employees participating in the program. The coverages may be combined with or similar to, but separate from, coverages provided to retirees. The sum of premiums and administrative fees received from participating school districts and active employees must cover all expenses of school district employee participation in the program.

(d) Participation by an active employee of a participating school district is optional with the employee. A school district may not offer a financial incentive to an active employee for declining to participate in the program. An active employee is entitled to obtain coverage for dependents in the same manner as a participating retiree.

(e) Each participating school district shall contribute for each district employee covered by the program an amount equal to the cost for the employee only of the plans of group coverages authorized by the trustee for active employees, except that the school district's contribution may not exceed the amount contributed for each state employee by the state under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

(f) Each employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of employer contributions.

(g) The trustee shall deposit in the fund all fees collected under Section 44(d), Chapter 812, Acts of the 73rd Legislature, 1993, except that portion used to conduct the survey required by Section 44. The trustee shall continue to collect the fee through the 1996-97 school year, after which time the fee expires.

(b) The state may make contributions to the fund in addition to those required by Section 16(b) of this article for the purpose of assisting in the expansion of the program to active employees.

(i) The trustee shall begin enrollment in the program for active employees to be effective beginning with the 1996-97 school year.

SECTION 60. Section 9, Article 3.50-4, Insurance Code, is amended to read as follows:

Sec. 9. BENEFIT CERTIFICATES. At such times, or upon such events, as designated by the trustee, each insurance carrier shall issue to each retiree, active employee, surviving spouse, or surviving dependent child insured under this article a certificate of insurance that:

(1) states the benefits to which the person [~~retiree, surviving spouse, or surviving dependent child~~] is entitled;

(2) states to whom the benefits are payable;

(3) states to whom the claims must be submitted; and

(4) summarizes the provisions of the policy principally affecting the person [~~retiree, surviving spouse, or surviving dependent child~~].

SECTION 61. Section 10(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) Not later than the 180th day after the end of each state fiscal year, the trustee shall make a written report to the State Board of Insurance concerning the insurance coverages provided and the benefits and services being received by persons [~~retirees, surviving spouses, dependents, and surviving dependent children~~] insured under this article.

SECTION 62. Sections 12 and 13, Article 3.50-4, Insurance Code, are amended to read as follows:

Sec. 12. DEATH CLAIMS: BENEFICIARIES. The amount of group life insurance and group accidental death and dismemberment insurance covering a retiree, active employee, surviving spouse, dependent, or surviving dependent child at the date of death shall be paid, on the establishment of a valid claim, only:

(1) to the beneficiary or beneficiaries designated by the person [~~retiree, surviving spouse, dependent, or surviving dependent child~~] in a signed and witnessed written document received before death in the trustee's office; or

(2) if no beneficiary is properly designated or in existence, to persons in accordance with the trustee's death benefit provisions in Subsection (b), Section 824.103, Government Code.

Sec. 13. AUTOMATIC COVERAGE. A retiree or active employee who applies during an enrollment period may not be denied any of the group insurance basic coverage provided under this article unless the person [~~retiree~~] has been found under Section 18A of this article to have defrauded or attempted to defraud the Texas Public School [~~Retired~~] Employees Group Insurance Program.

SECTION 63. The heading of Section 15, Article 3.50-4, Insurance Code, is amended to read as follows:

Sec. 15. [~~RETIRED~~] SCHOOL EMPLOYEES GROUP INSURANCE FUND.

SECTION 64. Section 15(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) The ~~[retired]~~ school employees group insurance fund is created. The State Treasurer is the custodian of the fund, and the trustee shall administer the fund. All contributions from active employees, retirees, and the state, contributions for optional coverages, investment income, appropriations for implementation of this program, and other money required or authorized to be paid into the fund shall be paid into the fund. From the fund shall be paid, without state fiscal year limitation, the appropriate premiums to the carrier or carriers providing group coverage under the plan or plans under this article, claims for benefits under the group coverage, and the amounts expended by the trustee for administration of the program. The appropriate portion of the contributions to the fund to provide for incurred but unreported claim reserves and contingency reserves, as determined by the trustee, shall be retained in the fund.

SECTION 65. Article 3.50-4, Insurance Code, is amended by adding Section 15A to read as follows:

Sec. 15A. FUNDING STUDY. (a) The legislative audit committee shall select an independent firm with substantial experience in evaluating group insurance plans to conduct a study and make recommendations to the legislature and the trustee concerning the funding of the plan provided by this article for the benefit of and participation by active employees and retirees of public school districts. In its study of funding alternatives, the evaluating firm may consider and recommend procedures having an effect on funding, including procedures to control costs and minimize adverse selection.

(b) A report of the study under this section, including recommendations resulting from the study, shall be filed not later than December 1, 1996, with the legislative audit committee, the lieutenant governor, the speaker of the house of representatives, and the trustee.

(c) The trustee shall pay the costs of the study from the fund.

(d) This section expires January 1, 1997.

SECTION 66. Sections 18A(a), (b), (d), and (f), Article 3.50-4, Insurance Code, are amended to read as follows:

(a) After notice and hearing as provided by this section, the trustee may expel from participation in the Texas Public School ~~[Retired]~~ Employees Group Insurance Program any retiree, active employee, surviving spouse, dependent, or surviving dependent child who submits a fraudulent claim under, or has defrauded or attempted to defraud, any health benefits plan offered under the program.

(b) On its motion or on the receipt of a complaint, the trustee may call and hold a hearing to determine whether a person ~~[retiree, surviving spouse, dependent, or surviving dependent child]~~ has submitted a fraudulent claim under, or has defrauded or attempted to defraud, any health benefits plan offered under the Texas Public School ~~[Retired]~~ Employees Group Insurance Program.

(d) If the trustee, at the conclusion of the hearing, issues a decision that finds that the accused ~~[retiree, surviving spouse, dependent, or~~

~~surviving dependent child~~] submitted a fraudulent claim or has defrauded or attempted to defraud any health benefits plan offered under the Texas Public School ~~[Retired]~~ Employees Group Insurance Program, the trustee shall expel the ~~person [retiree, surviving spouse, dependent, or surviving dependent child]~~ from participation in the program.

(f) A ~~person [retiree, surviving spouse, dependent, or surviving dependent child]~~ expelled from the Texas Public School ~~[Retired]~~ Employees Group Insurance Program may not be insured by any health insurance plan offered by the program for a period, to be determined by the trustee, of up to five years from the date the expulsion takes effect.

SECTION 67. Section 18B(a), Article 3.50-4, Insurance Code, is amended to read as follows:

(a) Section ~~825.507, Government Code [35.507, Title 110B, Revised Statutes]~~, concerning the confidentiality of information in records that are in the custody of the Teacher Retirement System of Texas, applies to information in records that are in the custody of the retirement system regarding retirees, active employees, annuitants, or beneficiaries under the Texas Public School ~~[Retired]~~ Employees Group Insurance Program.

SECTION 68. Sections 18C(c), (d), and (i), Article 3.50-4, Insurance Code, are amended to read as follows:

(c) The trustee, the Texas public school ~~[retired]~~ employees group insurance program, the ~~[retired]~~ school employees group insurance fund, and the board of trustees, officers, advisory committee members, and employees of the trustee are not liable for damages arising from the acts or omissions of health care providers who are participating health care providers in the coordinated care network established by the trustee. Those health care providers are independent contractors and are responsible for their own acts and omissions.

(d) The trustee, the Texas public school ~~[retired]~~ employees group insurance program, the ~~[retired]~~ school employees group insurance fund, or a member of a credentialing committee, or the board of trustees, officers, advisory committee members, or employees of the trustee are not liable for damages arising from any act, statement, determination, recommendation made, or act reported, without malice, in the course of the evaluation of the qualifications of health care providers or of the patient care rendered by those providers.

(i) A credentialing committee, a person participating in a credentialing review, a health care provider, the trustee, the Texas public school ~~[retired]~~ employees group insurance program, or the board of trustees, officers, advisory committee members, or employees of the trustee that are named as defendants in any civil action filed as a result of participation in the credentialing process may use otherwise confidential information obtained for legitimate internal business and professional purposes, including use in their own defense. Use of information under this subsection does not constitute a waiver of the confidential and privileged nature of the information.

SECTION 69. (a) Monthly payments of a death or retirement benefit annuity by the Teacher Retirement System of Texas are increased beginning with the payment due at the end of September, 1995.

(b) Except as provided by Subsection (c) of this section, the amount of the monthly increase is computed by multiplying the previous monthly benefit by a percentage determined in accordance with the following table:

LATEST RETIREMENT DATE OR, IF APPLICABLE, DATE OF DEATH	INCREASE
Before September 1, 1972	14%
On or after September 1, 1972, but before September 1, 1973	15%
On or after September 1, 1973, but before September 1, 1974	17%
On or after September 1, 1974, but before September 1, 1975	14%
On or after September 1, 1975, but before September 1, 1976	13%
On or after September 1, 1976, but before September 1, 1977	16%
On or after September 1, 1977, but before September 1, 1978	14%
On or after September 1, 1978, but before September 1, 1979	13%
On or after September 1, 1979, but before September 1, 1980	12%
On or after September 1, 1980, but before September 1, 1981	9%
On or after September 1, 1981, but before September 1, 1982	8%
On or after September 1, 1982, but before September 1, 1983	7%
On or after September 1, 1983, but before September 1, 1985	8%
On or after September 1, 1985, but before September 1, 1986	7%
On or after September 1, 1986, but before September 1, 1987	8%
On or after September 1, 1987, but before September 1, 1989	7%
On or after September 1, 1989, but before September 1, 1990	5%
On or after September 1, 1990, but before September 1, 1992	3%
On or after September 1, 1992, but before September 1, 1993	2%

(c) An annuitant is entitled to the greater of:

(1) a monthly benefit annuity computed as if:

(A) Subtitle C, Title 8, Government Code, as it existed on January 1, 1995, had been in effect on the date of retirement or on the date of death, as applicable; and

(B) all benefits increases, including that provided by Subsection (b) of this section, were included that are applicable to the annuity and were provided after the date the annuity began; or

(2) if the annuity is based on a retirement or death that occurred before September 1, 1993, the monthly benefit annuity option selected at the time of retirement or death:

(A) recomputed on the basis of one-twelfth of the minimum annual salary provided by the Education Code for a classroom teacher or full-time librarian, multiplied by two percent for each year of service credit in the retirement system;

(B) actuarially reduced, if applicable, for early retirement; and

(C) excluding the increase provided by Subsection (b) of this section.

SECTION 70. The following sections of the Government Code are repealed:

- (1) Section 825.106;
- (2) Section 825.310; and
- (3) Section 825.401.

SECTION 71. (a) Section 824.304, Government Code, as amended by this Act, applies to payments of monthly annuities that are made to persons who retired for disability before the effective date of this section and that become due on or after that date, as well as to annuities that first become payable on or after that date.

(b) On September 1, 1995, the Teacher Retirement System of Texas shall transfer all amounts in the benefit increase reserve account to the retired reserve account.

SECTION 72. The terms of members of the Board of Trustees of the Teacher Retirement System of Texas appointed under Section 825.003, Government Code, as it existed before the effective date of this section, expire on the effective date of this section. The changes in the qualifications and methods of appointment of other members of the board of trustees made by this Act apply only to members appointed for terms that begin on or after the effective date of this section. In implementing the changes, the governor shall appoint a member of the board of trustees from a list of nominees submitted by the State Board of Education to a term expiring August 31, 2001, another member of the board from a list of nominees submitted by the State Board of Education to a term expiring August 31, 1997, and another member of the board without the necessity of consultation with the State Board of Education to a term expiring August 31, 2001.

SECTION 73. The Teacher Retirement System of Texas shall develop an initial space allocation plan as defined in rules of the General Services Commission and submit the plan to the commission for approval not later than March 1, 1996. The retirement system shall implement an approved plan not later than September 1, 1996.

SECTION 74. This Act takes effect September 1, 1995, except Section 72 and this section, which take effect August 31, 1995.

SECTION 75. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. 9 as follows:

(1) Between existing SECTIONS 15 and 16 of the bill (House committee report, page 9, between lines 14 and 15), insert the following appropriately numbered section:

SECTION ____ . Subchapter B, Chapter 824, Government Code, is amended by adding Section 824.1011 to read as follows:

Sec. 824.1011. DESIGNATION OF BENEFICIARY AFTER RETIREMENT. (a) A retiree who is receiving a standard service retirement annuity under Section 824.203 and who marries after the date of the person's retirement may replace the annuity by selecting an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) and designating the person's spouse as beneficiary before the first anniversary of the marriage in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(b) The selection of an optional annuity and designation of a beneficiary under this section do not take effect until the first payment of the annuity that becomes due two years after the date the selection and designation are filed with the retirement system.

(c) The retirement system shall recompute the annuity of a retiree who selects an optional annuity and designates a beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the retiree's retirement. The retirement system by rule shall provide for the recovery of the actuarial value of the difference between payments under the original and recomputed annuities by adjusting the first 60 payments of the recomputed annuity accordingly.

(d) If a retiree who selects an optional annuity and designates a beneficiary under this section dies before the change takes effect or if the designated beneficiary dies before the change takes effect, the selection of an optional annuity and designation of beneficiary have no effect.

(2) Between existing SECTIONS 71 and 72 of the bill (House committee report, page 51, between lines 7 and 8), insert the following appropriately numbered section:

SECTION _____. Notwithstanding Section 824.1011, Government Code, as added by this Act, a retiree of the Teacher Retirement System of Texas who is receiving a standard service retirement annuity and who married after retirement but before the effective date of that section is entitled to select an annuity and designate a beneficiary as provided by that section before September 1, 1996.

(3) Renumber sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House committee report, page 52, line 2) accordingly.

Floor Amendment No. 2

Amend C.S.S.B. 9 by striking SECTION 33 of the bill (House committee report, page 22, lines 13-23) and substituting the following:

SECTION 33. Section 825.006, Government Code, is amended to read as follows:

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2007 [1995] are reviewed or, if the retirement system's operating expenses are not subject to the appropriations process on September 1, 1995, the board shall be reviewed during the period in which state agencies abolished in 1997 are reviewed. This section expires September 1, 2007 [1995].

Floor Amendment No. 3

Amend C.S.S.B. 9 in SECTION 69 of the bill (House committee report, page 50, between lines 20 and 21) by adding a new Subsection (d) to read as follows:

(d) For the purpose of computing the annuity increase provided by Subsection (c) of this section for a person whose annuity is not currently based on the highest three-year average compensation, the retirement system may use compensation amounts based on current actuarial assumptions. An annuitant who so requests in writing will receive the increase computed on the greater of compensation based on current actuarial assumptions or actual compensation computed under the law in effect on January 1, 1995.

Floor Amendment No. 5

Amend C.S.S.B. 9 as follows:

(1) Strike SECTION 15 of the bill (House committee report, page 9, lines 4-14) and substitute the following:

SECTION 15. Section 824.101(c), Government Code, is amended to read as follows:

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), ~~or~~ (c)(2), or (c)(5), and a designation of beneficiary under any [either] of those options may not be made, changed, or revoked, except as provided by Section 824.1011, after the later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due. For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

SECTION 16. Subchapter B, Chapter 824, Government Code, is amended by adding Section 824.1011 to read as follows:

Sec. 824.1011. DESIGNATION OF BENEFICIARY AFTER RETIREMENT. (a) In this section:

(1) "New beneficiary" means the most recent beneficiary designated by an annuitant under this section.

(2) "Old beneficiary" means the beneficiary preceding a new beneficiary. The term may include a person designated as beneficiary at the time of retirement.

(b) An annuitant may change a designation of beneficiary of an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or under Section 824.308(c)(1), (c)(2), or (c)(5) at any time after retirement in the same manner as the original designation was made.

(c) A change of beneficiary made under this section does not take effect until the first payment of the annuity that becomes due two years after the date the beneficiary designation is filed with the retirement system.

(d) The retirement system shall recompute the annuity of an annuitant who makes a change of beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the annuitant's retirement. The retirement system by rule shall provide for the recovery of the actuarial value, if any, of the difference between payments under the original and recomputed annuities by adjusting the recomputed annuity to equal the actuarial present value of the original retirement annuity as of the date the annuitant filed the change of beneficiary.

(e) If an annuitant who makes a change of beneficiary under this section dies before the change of beneficiary takes effect, the annuity is payable to the old beneficiary until the effective date of the change. If the beneficiary designated at the time of retirement dies before the change of beneficiary would take effect, the change of beneficiary has no effect.

(f) A change of beneficiary under this section is independent of and subordinate to a qualified domestic relations order issued and approved as provided by Subchapter A, Chapter 804.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House committee report, page 52, line 2) accordingly.

Floor Amendment No. 6

Amend C.S.S.B. 9 in SECTION 34 of the bill, in the amended Section 825.010(a)(5), Government Code, by striking "half" and substituting "one-third [~~half~~]".

Floor Amendment No. 9

Amend C.S.S.B. 9, page 17 line 19 by inserting a new Section 26 to read as follows and renumbering subsequent sections accordingly:

SECTION ____ . Section 824.4041(b), Government Code, is amended to read as follows:

(b) The retirement system shall:

(1) verify whether a person is eligible to receive benefits under this section:

(2) determine number of months that the person was 65 years of age or older and did not receive the monthly survivor benefit during the period beginning on the date the person remarried, if before August 31, 1979, and ending August 31, 1979, and multiply that number by \$75;

(3) determine the number of months that the person was 65 years of age or older and did not receive the monthly survivor benefit during the period beginning on the date the person remarried or September 1, 1979, whichever date is later, and ending on the last day of the month in which the person is verified as eligible for benefits under this section, and multiply that number by \$100;

(4) make payable to the eligible person in a lump sum an amount equal to the amount computed under Subdivision (2) plus the amount computed under Subdivision (3); and

(5)[(2)] if the person is eligible, make payment to the person of a monthly benefit in the amount specified in Section 824.404.

Floor Amendment No. 11

Amend C.S.S.B. 9 as follows:

(1) Between existing SECTIONS 10 and 11 of the bill (House committee report, page 6, between lines 16 and 17), insert the following appropriately numbered section:

SECTION ____ . Subchapter E, Chapter 823, Government Code, is amended by adding Section 823.404 to read as follows:

Sec. 823.404. CREDIT FOR CERTAIN TEACHING SERVICE. (a) A retiree may establish equivalent membership service credit in the retirement system for service as an employee that would have been creditable as membership service when performed except that the person was solely employed by a public institution of higher education that as a condition of employment required the employee to be enrolled as a student in the institution.

(b) A retiree may establish credit under this section by depositing with the retirement system an amount equal to the sum of:

(1) the amount that the retiree would have contributed to the retirement system if the service had been membership service at the time it was performed;

(2) the amount that the state would have contributed to the retirement system if the service had been membership service at the time it was performed;

(3) all membership fees in effect during the period of service; and

(4) a fee of eight percent, compounded annually, of the contribution required by Subdivisions (1), (2), and (3) from the date the service was performed to the date of deposit.

(c) After a retiree makes the deposit required by Subsection (b), the retirement system shall grant the retiree the amount of service credit for which the deposit was made and recompute the retiree's annuity to include the additional service credit. An annuity as recomputed under this section becomes payable beginning with the first payment that becomes due after the recomputation.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House committee report, page 52, line 2) accordingly.

Floor Amendment No. 12

Amend C.S.S.B. 9 as follows:

1) On page 43, line 11, add a new SECTION 60 to read as follows:

SECTION 60. Section 8(e), Insurance Code, is amended to read as follows:

(e) The trustee may contract for and make available to all retirees, dependents, surviving spouses, and surviving dependent children optional group health insurance benefit plans in addition to basic plans. The optional coverage may include a smaller deductible, lower coinsurance, or additional categories permitted under Subsection (b) of this section to provide additional levels of coverage and benefits. The trustee may utilize a portion of funds received for Texas Public School Retired Employees Group Insurance program to offset some portion of the optional coverage. Any additional contributions for these optional plans shall be paid for by the retiree, surviving spouse, or surviving dependent children.

2) Renumber all subsequent sections.

Floor Amendment No. 13

Amend C.S.S.B. 9 as follows:

(1) Between existing SECTIONS 10 and 11 of the bill (House committee report, page 6, between lines 16 and 17), insert the following appropriately numbered section:

SECTION ____ . Section 823.502, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A member of the Employees Retirement System of Texas with at least 36 months of service credit in that system may resume membership in this retirement system and reestablish and establish credit under this section without holding a position included in the membership of the retirement system or meeting the service requirement provided by Subsection (b). To resume membership, a person eligible under this subsection must pay the deposit required by Subsection (c), to the extent applicable, except that the reinstatement fee is computed from the first day of the person's service under the Employees Retirement System of Texas to the date of redeposit.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House Committee Report, page 52, line 2) accordingly.

The amendments were read.

Senator Armbrister moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 9 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Wentworth, Montford, Madla, and Leedom.

SENATE BILL 1335 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1335, Relating to the waiver of, moratorium on, or alternate use of municipal impact fees.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend S.B. 1335 as follows:

On page 3, line 15 after "individuals" add the words "with incomes no greater than 80 percent of the area median family income, adjusted for

family size, as determined by the U.S. Department of Housing and Urban Development".

The committee amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 1335 as follows:

(1) Add the following Subsection (e) to proposed Section 395.103 on page 3 after line 11:

"(e) This section applies only to a county with a population of more than 500,000 and less than 1,000,000 in which, on the effective date of this act, the municipality with the highest population has waived imposition of impact fees for the purpose of assisting the development of affordable housing."

(2) On page 1, line 25, after the word "Affairs" delete the comma and add:

"or the United States Department of Housing and Urban Development."

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1335 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 1335 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1090 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1090, Relating to the continuation and functions of the Texas Workers' Compensation Insurance Fund.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1090 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1090 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(Senator Moncrief in Chair)

HOUSE BILL 1089 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1089, Relating to the continuation and functions of the Texas Workers' Compensation Commission; providing penalties.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1089** by adding the following language to subsection (b) of Sec. 408.122 (page 17, line 1):

To the extent possible, a designated doctor must be in the same discipline and licensed by the same board of examiners as the employee's doctor of choice.

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **H.B. 1089**, on page 35, lines 1 through 8, by striking SECTION 1.49 in its entirety and renumbering subsequent subsections accordingly.

The committee amendment was read and was adopted by a viva voce vote.

(President in Chair)

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend **H.B. 1089** as engrossed as follows:

(1) on page 13, line 15, after the word "self-insurer", insert the phrase "in the previous year for administration of self-insurance".

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 4

Amend **H.B. 1089** by striking SECTION 1.19 in its entirety and renumbering the subsequent sections accordingly.

The committee amendment was read.

Senator Whitmire moved to withdraw Committee Amendment No. 4.

The motion prevailed by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1089**, Sec. 408.125, Labor Code (on page 7, between lines 68 and 69, committee printing) by adding the following:

(g) A violation of subsection (f) is a Class C administrative violation.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1089**, Sec. 409.041(b), Labor Code (on page 9, between lines 14 and 15, committee printing), by adding the following:

(5) meet with an unrepresented claimant privately for a minimum of 15 minutes prior to any informal or formal hearing.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 3

Amend **H.B. 1089**, Sec. 411.0415(c), Labor Code (on page 10, line 54, committee printing) by deleting the word "may" and substituting in lieu thereof the word "shall".

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 3 was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Armbrister, Bivins, Brown, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Sims, Wentworth.

Nays: Barrientos, Cain, Ellis, Gallegos, Luna, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 4

Amend **H.B. 1089**, Sec. 413.031(d), Labor Code (on page 11, line 63, committee printing) after the words Office of Administrative Hearings, add "within 90 days of receipt of a request for a hearing"

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 5

Amend **H.B. 1089** by adding a new SECTION 1.20 as follows and renumber subsequent sections accordingly:

SECTION 1.20. Subchapter E, Chapter 406, Labor Code is amended as follows:

Sec. 406.096. REQUIRED COVERAGE FOR CERTAIN BUILDING OR CONSTRUCTION CONTRACTORS.

(a) A governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides ~~[workers' compensation]~~ occupational injury insurance coverage for each employee of the contractor employed on the public project provided such occupational injury insurance affords employers and employees substantially the same coverage as worker's compensation insurance.

(b) Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the governmental entity.

(c) A contractor who has a contract that requires ~~[workers' compensation]~~ occupational injury insurance coverage may provide the coverage through a workers' compensation insurance, group plan or other methods satisfactory to the governing body of the governmental entity;

(d) The employment of a maintenance employee by an employer who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

(e) In this section:

(1) "Building or construction" includes:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

(2) "Governmental entity" means this state or a political subdivision of this state. The term includes a municipality.

The amendment was read.

On motion of Senator Wentworth and by unanimous consent, Floor Amendment No. 5 was withdrawn.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 5A

Amend **H.B. 1089** by adding a new SECTION 1.20 as follows and renumber subsequent sections accordingly:

SECTION 1.20. Subchapter E, Chapter 406, Labor Code is amended as follows:

Sec. 406.096. REQUIRED COVERAGE FOR CERTAIN BUILDING OR CONSTRUCTION CONTRACTORS.

(a) A governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides ~~[workers' compensation]~~ occupational injury insurance coverage for each employee of the contractor employed on the public project provided such occupational injury insurance affords employers and employees coverage that is equal to or better than worker's compensation insurance.

(b) Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the governmental entity.

(c) A contractor who has a contract that requires ~~[workers' compensation]~~ occupational injury insurance coverage may provide the coverage through a workers' compensation insurance, group plan or other methods satisfactory to the governing body of the governmental entity;

(d) The employment of a maintenance employee by an employer who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

(e) In this section:

(1) "Building or construction" includes:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

(2) "Governmental entity" means this state or a political subdivision of this state. The term includes a municipality.

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The amendment was read.

Senator Turner offered the following amendment to Floor Amendment No. 5A:

Floor Amendment No. 5B

Amend Floor Amendment No. 5A to **H.B. 1089** as follows:

Add at the end of Sec. 406.096(a) the following:

"Carriers offering occupational injury insurance may submit their policies to the Commission for certification that their policies are "equal to or better than" workers' compensation insurance as to the benefits provided the workers.

The amendment to Floor Amendment No. 5A was read.

(Senator Truan in Chair)

POINT OF ORDER

Senator Rosson raised a point of order that Floor Amendment No. 5A and Floor Amendment No. 5B to **H.B. 1089** were in violation of Senate Rule 7.16, which states that no amendment shall be considered to any tax bill or sunset bill on second reading unless the subject matter it entails has been discussed at a Senate committee meeting at which the bill was heard.

The Presiding Officer ruled that the point of order was well-taken and sustained.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 6

Amend **H.B. 1089** as follows:

Add the following new subsections to Section 402.092 on page 5 between lines 47-48:

(e) The Commission, upon request, shall disclose the identity of a complainant under this section if the commission finds:

(1) The complaint was groundless or made in bad faith, or

(2) The complaint lacks any basis in fact or evidence, or

(3) The complaint is frivolous, or

(4) The complaint is done specifically for competitive or economic advantage.

(f) Upon completion of an investigation where the commission determines a complaint is groundless, frivolous, made in bad faith, or is not supported by evidence or is done specifically for competitive or economic advantage the commission shall notify the person who was the subject of the complaint of its finding and the identify of the complainant.

MONTFORD
WHITMIRE

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1089 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1089** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

MESSAGE FROM THE HOUSE

House Chamber
May 3, 1995

Mr. President: I am directed by the House to inform the Senate that the House has refused to adopt the Senate amendments to **H.B. 1863**. The

House requests the appointment of a conference committee to discuss the differences between the Houses. The House conferees are: Representatives Hilderbran, Chair; Maxey, Oliveira, Thompson, and Denny.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1863

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **H.B. 1863** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **H.B. 1863** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chair; Moncrief, Patterson, Armbrister, and Ellis.

SENATE BILL 1681 REREFERRED

On motion of Senator Nelson and by unanimous consent, **S.B. 1681** was withdrawn from the Committee on Economic Development and was rereferred to the Committee on State Affairs.

SENATE RULE 11.19 SUSPENDED (Posting Rule)

On motion of Senator Harris and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might consider **H.C.R. 160** tomorrow.

SENATE RULE 11.19 SUSPENDED (Posting Rule)

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider **H.B. 2495** today.

SENATE RULE 11.19 SUSPENDED (Posting Rule)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today:

H.B. 2062
H.B. 3157
S.B. 664

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Harris announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 7:30 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

MEMORIAL RESOLUTIONS

S.R. 892 - By Shapiro: In memory of Mary Thelma Pettigrew Bray of Dallas.

H.C.R. 161 - (Ratliff): In memory of M. A. "Catfish" Smith.

H.C.R. 181 - (Shapiro): In memory of Herb Walne, Jr.

CONGRATULATORY RESOLUTIONS

S.R. 893 - By Shapiro: Congratulating the Plano Senior High School soccer team on winning the 1995 state championship.

S.R. 894 - By Sims: Recognizing Lillian Moore Dean of Llano County for her accomplishments and for voting in every election since 1920.

S.R. 895 - By Montford: Recognizing "Big Ed" Wilkes of KRFE Radio Station in Lubbock for his contributions to his community.

S.R. 896 - By Montford: Congratulating Mr. and Mrs. Walter L. Slate of Big Spring on their 50th wedding anniversary.

S.R. 897 - By Montford: Congratulating Joseph "Joe" Pickle of Big Spring on the occasion of his retirement from the Colorado River Municipal Water District.

S.R. 898 - By Montford: Congratulating Clyde McMahon, Sr., of Big Spring on the occasion of his retirement from the Colorado River Municipal Water District.

S.R. 899 - By Montford: Congratulating John L. Taylor of Big Spring on the occasion of his retirement from the Colorado River Municipal Water District.

S.R. 900 - By Montford: Congratulating Owen H. Ivie of Big Spring on the occasion of his retirement from the Colorado River Municipal Water District.

S.R. 901 - By Haywood, Shapiro: Commending Dr. Don Edward Beck for his contributions toward the peaceful creation of a democratic South Africa.

S.R. 902 - By Cain: Recognizing Kathleen Hill Becknell for her many contributions to the residents of Rains County.

S.R. 903 - By Cain: Congratulating Dr. Karen Raney, principal of Hubbard Middle School in Tyler, who was selected as the winner of the Texas Women's Alliance Excellence in Education Award.

S.R. 904 - By Barrientos, Wentworth: Commending the Mexican American Youth Alliance (MAYA) of Round Rock High School for its work in planning a 1995 Cinco de Mayo celebration.

S.R. 905 - By Turner: Recognizing Doug Jackson of Nederland for his artistic talent and success.

S.R. 910 - By Zaffirini: Congratulating Mr. and Mrs. Stuart M. Luce on the occasion of their 70th wedding anniversary

H.C.R. 25 - (Montford): Commending Bill Sarpalius for his service in the Texas Senate and the United States Congress.

H.C.R. 58 - (Montford): Congratulating Howard County Junior College on its 50th anniversary.

H.C.R. 143 - (Turner): Designating March 29 of this year and each succeeding year as Love the Children Day in Texas.

H.C.R. 163 - (Ratliff): Congratulating the Clarksville High School boys' basketball team.

RECESS

On motion of Senator Truan, the Senate at 2:15 p.m. recessed until 7:30 a.m. tomorrow for the Local and Uncontested Bills Calendar.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 3, 1995

JURISPRUDENCE — H.B. 2725, H.B. 1523, C.S.H.B. 2265, H.B. 2096, C.S.S.B. 1435, S.C.R. 130, S.B. 1567, C.S.S.B. 842, C.S.S.B. 1306, S.B. 1212 (Amended), H.B. 438, H.B. 1242, H.B. 437, H.B. 436, H.B. 1754, S.B. 1687 (Amended), C.S.S.B. 7

NATURAL RESOURCES — H.B. 1405 (Amended), H.B. 2230, H.B. 1600, H.B. 1480, C.S.S.B. 1674, H.B. 724, H.B. 846, C.S.S.B. 1688, C.S.S.B. 977, C.S.S.B. 1322, S.B. 1500 (Amended), S.B. 1612, S.B. 1611, S.B. 1613, C.S.S.B. 1697, H.B. 670, H.B. 1593, H.B. 1968, C.S.H.B. 2015, H.B. 2341, H.B. 3003, C.S.S.B. 1395

HEALTH AND HUMAN SERVICES — H.B. 1659, H.B. 1507, H.B. 1506, H.B. 1504, H.B. 997, H.B. 223, S.B. 1656 (Amended), C.S.H.B. 1505

EDUCATION — H.B. 1336, H.B. 1337, S.B. 585, S.B. 1691, S.B. 1692, S.C.R. 135, C.S.S.B. 1699

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — H.B. 523

JURISPRUDENCE — C.S.S.B. 793

STATE AFFAIRS — C.S.S.B. 1321

CRIMINAL JUSTICE — H.B. 592, H.B. 466 (Amended), S.B. 569, C.S.S.B. 1276, S.B. 1582 (Amended), S.B. 1217 (Amended), H.B. 981, H.B. 1695, C.S.S.B. 840

SIGNED BY GOVERNOR

(May 3, 1995)

H.C.R. 3
H.C.R. 64
H.C.R. 99
H.C.R. 146
H.C.R. 156
H.C.R. 167
H.C.R. 169
S.C.R. 120

SIXTY-THIRD DAY

(Continued)

(Thursday, May 4, 1995)

AFTER RECESS

The Senate met at 7:30 a.m. and was called to order by Senator Moncrief.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

H.B. 637 (Henderson) Relating to certification of court reporters. (31-0) (31-0)

H.B. 645 (Harris) Relating to municipal approval of certain amending plats. (31-0) (31-0)

H.B. 767 (Bivins) Relating to the terms of court of the 142nd District Court. (31-0) (31-0)

H.B. 1235 (Leedom) Relating to special judges elected by the practicing lawyers of the statutory probate courts in Dallas County. (31-0) (31-0)